

1                               IN THE UNITED STATES DISTRICT COURT  
2                               FOR THE SOUTHERN DISTRICT OF TEXAS  
3                               HOUSTON DIVISION

4       PRESTON WOOD & ASSOCIATES, LLC,       )  
5                               Plaintiff,       )       NO. H-16-CV-1427  
6       v.       )       August 23, 2018  
7       CAMERON ARCHITECTS, INC.,       )  
8       STEPHEN CAMERON, and       )  
9       UL, INC., d/b/a URBAN LIVING,       )  
10       and VINOD RAMANI       )  
11                               Defendants.

12                               TRIAL  
13                               BEFORE THE HONORABLE DAVID HITTNER  
14                               AND A JURY

15                               VOLUME 2  
16                               PAGES 2-1 to 2-262

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1 (Jury not present)

2 THE COURT: Okay. On this stipulation that goes on  
3 for all these pages, give me an alternative. I'm not going  
4 to sit and read that in.

10:27 5 MR. ZUMMO: Do you want to select --

6 MR. BONHAM: I'll cut it down -- cut it down some  
7 more.

8 THE COURT: Take a look at it during your opening  
9 statements. See if you can cut it down.

10:27 10 MR. BONHAM: Yes, sir.

11 THE COURT: Because I've never in all my years had  
12 that many stipulations to read in. I'm not criticizing it.  
13 I'm glad you could do it. But it's a matter that we don't  
14 want them just sitting and listening. It'll have no context  
10:27 15 at all.

16 So, certainly, after your opening statements,  
17 let's -- we'll have you come up to the bench and we'll see  
18 how to do it. Okay? If you want to narrow it down, if you  
19 want to read it and count half and half on each of your time  
10:27 20 or whatever, that sort of thing. Okay? I'll leave it up to  
21 you.

22 At least give them a bit of an overview on  
23 your opening and then you feel how much you have to read in  
24 or you can send all of this back later and I can read it  
10:27 25 when I read the charge to the jury. There's all sorts of

1 ways around it to get the trial moving.

2 MR. ZUMMO: Your Honor, I know that it would make  
3 sense to save the stipulation on the revenues, which are  
4 probably --

10:28 5 THE COURT: Yeah. Because it wouldn't mean  
6 anything to them at the front end.

7 MR. ZUMMO: Sure.

8 THE COURT: We might do it at the end of the case.

9 MR. BONHAM: Part of what we're trying to do here  
10:28 10 is, again, to shorten it because these will be things we  
11 won't have to cover with witnesses.

12 THE COURT: Absolutely.

13 MR. BONHAM: I'll start --

14 THE COURT: No. Just think about an alternative  
10:28 15 how to read it in because we've got a jury here. They're  
16 ready to go and that's kind of bogging it down.

17 Why don't you do your opening. Think about  
18 it. Remind me. We'll get everybody up here. We'll discuss  
19 it briefly. If you want me to read it, I will read it.

10:28 20 I'll just check the time half and half.

21 All right. Let's get the jury in. Let's get  
22 them underway.

23 For instance, we don't need the numbers. It's  
24 important and we may want to put it in the charge conference  
10:29 25 as an attachment or something like that where even when I

1 start reading and reading and reading it to them I'm not  
2 just going down here. Think about it.

3 MR. ZUMMO: Yes. Sure.

4 THE COURT: A little creativity to make it  
10:29 5 interesting.

6 Where are they?

7 (Off-the-record discussion)

8 (Jury present)

9 THE COURT: Have a seat. Good morning, everybody.

10:30 10 I understand the Vice-President is in town;  
11 so, there's been a lot of congestion around here. They  
12 don't do that for me when I come back and forth, only if I'm  
13 riding in an ambulance.

14 But, anyhow, the first thing we do in a  
10:30 15 trial -- and the clock goes on -- is a brief opening  
16 statement. An opening statement is what the attorneys  
17 anticipate the evidence will show based upon their  
18 understanding going forward.

19 By the way, we talked about that timing order.  
10:31 20 I gave the attorneys the time they need. We're looking at,  
21 as far as trial days go, about three days, plus or minus --  
22 okay? -- depending upon how it goes. That's ballpark.

23 And then, of course, we have to do a charge  
24 conference, put together the charge. Then it has to be read  
10:31 25 to you and the arguments.

Opening Statement by Mr. Zummo

1 But as far as that part of the trial goes,  
2 we're looking plus or minus three days. Actually, if it's  
3 the exact time, it's something like three days and a few  
4 hours, based upon my experience. Okay? But they're  
10:31 5 experienced lawyers and they're going to be ready to go.

6 Remember, the Plaintiff has the burden of  
7 proof; so, they go first. There may be some that the  
8 defense has later on, but primarily it's the Plaintiff. So,  
9 they're going to go first.

10:31 10 We have a podium. By the way, if you're more  
11 comfortable talking to the jury closer up, we've got the  
12 lapel microphone.

13 All right. Plaintiff, go right ahead.

14 MR. ZUMMO: Thank you, Your Honor.

10:31 15 THE COURT: Yes, sir.

16 MR. ZUMMO: May it please the Court, counsel, and  
17 members of our jury.

18 As we said yesterday, this is a copyright  
19 infringement lawsuit, but it's also a case about trust. The  
10:32 20 evidence is going to show, we believe, that Sam and Preston  
21 Wood have spent their entire adult lives and their entire  
22 married life together building a business around the design  
23 of homes, homes for people to live in. And in that  
24 business, one of their focuses, the evidence is going to  
10:32 25 show, has been the design of townhouses.

Opening Statement by Mr. Zummo

1           You'll learn in the presentation of the  
2 evidence that Sam and Preston early on had an office in  
3 their home and they've always lived as a family and as a  
4 business inside the loop.

10:32 5           And they developed a special interest and,  
6 really, a dedication toward developing good designs that  
7 work inside the loop, and that means, in many cases,  
8 townhouse designs.

9           This case is before you because they need to  
10:33 10 protect what they've spent their lives building. They need  
11 to protect the designs that they have spent almost 40 years  
12 developing.

13           The evidence is going to show you that Preston  
14 Wood started his interest in house design when he was eight  
10:33 15 or nine years old, and he's dedicated his life to this early  
16 childhood interest of designing homes and studying how homes  
17 are designed.

18           As a result, when he started his business, he  
19 has been designing homes for so long that there are  
10:34 20 literally thousands of Preston Wood home designs.

21           And what they did in their business, you'll  
22 hear in the evidence, is that, when customers would come to  
23 them -- a homebuilder, a developer, an individual who just  
24 wants their own house -- one of the things that they can do  
10:34 25 is go to their library of existing designs. And they would

Opening Statement by Mr. Zummo

1 call them "stock plans" because they would at least try to  
2 start with a plan where they had solved the problems on a  
3 particular shape lot or created the number, square footage  
4 and floors, for what that particular client or homeowner  
10:34 5 wanted.

6 Those stock plans have value because they  
7 represent all of the accumulated knowledge and experience  
8 that went into creating that. And they're here in this  
9 courtroom before you to try to protect that investment and  
10:35 10 protect the value of those plans.

11 It's my pleasure -- and my co-counsel share in  
12 this -- to finally be able to present this case to a jury.  
13 As Judge Hittner said, both sides have worked a long time to  
14 get to this day in court.

10:35 15 The evidence is going to show you that the --  
16 for most of the life of Preston Wood & Associates, their  
17 business, Preston and Sam would either design new homes for  
18 people who needed them or take the existing stock plans and  
19 license them.

10:35 20 And "license" is a term that means 'For a sum  
21 of money and if you follow certain requirements, you have  
22 the right, you have our permission, to use our design.' And  
23 for most of their business these were done on a  
24 project-by-project basis.

10:36 25 But, in 2013, Preston Wood, who had done work



Opening Statement by Mr. Zummo

1 for many years for David Weekley Homes, was offered a  
2 position as director of high-density design by David Weekley  
3 Homes, and he decided to accept that job.

4 And, so, the nature of their business was  
10:36 5 going to change. Without Preston there to do design day to  
6 day and supervise others in designing homes, the nature of  
7 the business was shifting over to making this library of  
8 stock plans available for builders, clients, homeowners, who  
9 wanted to have a plan to start with.

10:36 10 Shortly after that, Preston got that offer and  
11 took that job in 2013. The evidence is going to show that,  
12 in late 2013, Mr. Vinod Ramani, who has a company called  
13 "Urban Living", came -- He had done business with Preston  
14 Wood & Associates on this project-by-project basis in the  
10:37 15 past, but he came and wanted a closer relationship with  
16 Preston Wood & Associates.

17 And what resulted was a contract that was  
18 signed in January 2014. And when you get the exhibits in  
19 this case, that will be Plaintiff's Exhibit No. 1. And I'm  
10:37 20 not going to go into the details of the contract now, but,  
21 in short summary, what you'll find when you see that  
22 contract and hear testimony about it is that Urban Living  
23 would have kind of first right to whatever Preston Wood  
24 plans they wanted to license inside the loop, and that meant  
10:37 25 that, as long as Urban Living satisfied the terms of the

*Opening Statement by Mr. Zummo*

1 contract, the competitors would not get to use those  
2 particular plans.

3           The contract also provided that, if Urban  
4 Living wanted to use a particular stock plan, Urban Living  
10:38 5 had to do three things. They had to say, 'This is the  
6 specific location where we're going to build houses based on  
7 that plan,' 'We're going to tell you the precise number of  
8 houses that we're going to build from that plan at that  
9 location,' and, 'We're going to pay you a fee that's  
10:38 10 calculated under the contract for the right to do that.'

11           And, as I said, there are other terms and  
12 conditions, but the -- those were the things that Urban  
13 Living was supposed to do to use a particular plan at a  
14 particular place.

10:38 15           The contract also -- When you see it, you'll  
16 see that it says that Urban Living can hire other architects  
17 or other home designers to modify Preston Wood plans and  
18 Urban Living can make those plans available to homebuilders.

19           But anyone who got access to and had the right  
10:39 20 to work with the Preston Wood plans had to agree to abide by  
21 the terms of the contract so that Preston Wood would know  
22 where our design is being used, who is using them, what are  
23 they doing to them.

24           And, finally, just as a short summary of this  
10:39 25 contract, because this was based on trust, when Preston went

Opening Statement by Mr. Zummo

1 to work for David Weekley Homes, Sam continued to run the  
2 business, but they only had, usually, just two extra  
3 employees. They didn't have an army of private  
4 investigators to go out and monitor whether Urban Living was  
10:40 5 actually complying with the contract. Like any business  
6 relationship, they treated this as a relationship of trust,  
7 and they trusted Urban Living to keep its word.

8 So, if there ever was a place or time that  
9 Urban Living failed to satisfy these conditions that were  
10:40 10 meant to protect Preston Wood's designs, all licenses would  
11 be terminated because, once you can't trust somebody to  
12 follow simple rules, you can't trust them at all.

13 And the only thing that -- If that did happen,  
14 the only thing Urban Living had the right to do was to  
10:40 15 finish -- or the builders had the right to finish any houses  
16 they had already started constructing.

17 This seemed to work. It was one of the --  
18 Like any successful business, what Preston Wood had learned  
19 over the years is, if both sides of a contract, both sides  
10:41 20 of a relationship, treat each other fairly, it's good for  
21 both sides. You're better off with -- everybody is better  
22 off. And this -- the whole process seemed to be working.

23 The evidence is going to show you, however,  
24 that, in May of 2014, five months -- or a little over four  
10:41 25 months after this contract went into effect, there was one

Opening Statement by Mr. Zummo

1 particular plan that Urban Living had requested and gone  
2 through the process of paying a license fee and telling  
3 Preston Wood what they were going to do. It's called a  
4 D5-214. You'll see it. You'll hear about it when we put on  
10:41 5 the evidence.

6 And Urban Living, after getting the plan, sent  
7 an e-mail to Sam that said, "We gave the CAD files" -- "CAD"  
8 is the computer drawing program -- "We gave the CAD files to  
9 Architect Stephen Cameron. He found problems with this  
10:42 10 plan. We don't want to use it. We want a release on it."

11 And even though Sam responded that, "We've  
12 looked at what you said the problems are. They're very easy  
13 to fix," ultimately, they got a credit for what they had  
14 paid for the next plan; and, as far as Preston Wood knew,  
10:42 15 the D5-214 wasn't going be used by Urban Living.

16 And when you see the exhibits, you'll find  
17 that that e-mail exchange is Plaintiff's Exhibit No. 3.  
18 It's a very important exhibit, we believe, in this case.

19 Life went on. This relationship went on. And  
10:42 20 sometime -- Although Urban Living didn't want to renew the  
21 contract that had expired, we thought, at the one-year  
22 anniversary date in 2015, at some point in 2016, the  
23 evidence is going to show, Sam got a phone call from one of  
24 the builders that was working with Urban Living, a company  
10:43 25 called Oppidan.

Opening Statement by Mr. Zummo

1                   And they said, "We need you to sign off on  
2                   getting an architect's permission so that we can use this  
3                   D5-214 plan to get a building permit from the City of  
4                   Houston."

10:43 5                   Sam went to the records, found out, 'wait a  
6                   minute. They're not using this plan. They wanted their  
7                   money back' and, after investigating, found out that the --  
8                   Urban Living had actually taken Preston Wood's CAD files,  
9                   made them available to Mr. Cameron.

10:43 10                  Mr. Cameron had used those CAD files to make  
11                  modifications to their design and that they were -- it was  
12                  being built, and that led to this lawsuit.

13                  What you'll see when we present the evidence  
14                  is five Preston Wood designs that we believe the evidence  
10:44 15                  will show have been infringed.

16                  When we present the evidence to you, what  
17                  you'll hear is primarily from Preston Wood himself, the  
18                  process that he went through to design those plans. In most  
19                  cases, the process involves starting with an earlier stock  
10:44 20                  plan.

21                  So, you'll see evidence of what we call the  
22                  "family tree". This one started and then this modified to  
23                  the second one and then along comes the D5-214.

24                  And we're going to present that to you because  
10:44 25                  the real purpose, we believe, of copyright law is to protect

Opening Statement by Mr. Zummo

1 creativity. And we believe that, when you get the  
2 instructions on copyright law at the end of this case, you  
3 will hear that, to have a valid copyright, there has to be  
4 some creativity in the material that's copyrighted.

10:45 5 And what you will hear from Preston Wood  
6 himself is the actual thought process, the creative process,  
7 that he went through for each one of these designs, the  
8 many, many choices that he had to make, the ways that, if  
9 you change one thing on a design, then you have to change  
10:45 10 something else and change something else. If anybody has  
11 ever tried to do their own do-it-yourself remodeling, you  
12 probably know what I'm talking about. And all of those  
13 choices -- all those things represent creativity, and that's  
14 what we contend and we believe copyright is meant to  
10:45 15 protect.

16 We will also present evidence to you of how  
17 these were copied and how you'll be able to see and compare  
18 the Preston Wood plan to the plans that were taken by Urban  
19 Living and put on Urban Living's own letterhead or their own  
10:46 20 logo used in marketing materials, used actually to build  
21 buildings.

22 You'll have those in front of you as part of  
23 the evidence. You'll be able to look at them side by side,  
24 and the witnesses will show you side by side how we believe  
10:46 25 and we contend one is copied from the other.

Opening Statement by Mr. Zummo

1           At the end of this case, you will also have to  
2       decide questions about what are the remedies here, what do  
3       we do about this.

4           THE COURT: Speak up a little bit, counsel.

10:46 5           MR. ZUMMO: As we discussed a little bit yesterday,  
6       the law of copyright allows a copyright owner whose work has  
7       been infringed to recover the profits that were made from  
8       the infringer.

9           So, we've actually all agreed on what the  
10:47 10       revenues were that Urban Living has obtained from these  
11       plans. Urban Living has the obligation under the law to  
12       bring you evidence of what their deductions are, what their  
13       expenses are and any other things that they say should be  
14       deducted. And it will be your decision, your job, to decide  
10:47 15       if these deductions of expenses and other things are  
16       properly documented and legitimate.

17           There's another aspect of our case, that we  
18       believe that you will be instructed that the law says that  
19       it is a violation of copyright law to distribute a copy of  
10:47 20       someone else's work and alter or remove what the law calls  
21       "copyright management information", and that includes  
22       "copyright notice".

23           We believe the evidence will show that Urban  
24       Living distributed infringing copies of Preston Wood's work  
10:48 25       without Preston Wood's copyright notice thousands of times.

Opening Statement by Mr. Zummo

1           And the question that we believe you'll be  
2 asked at the end of this case on that subject is: Did Urban  
3 Living violate this law and how many times did Urban Living  
4 distribute these copies in violation of the law?

10:48 5           As I said, this case is very important to  
6 Preston Wood. If they can't protect and keep people from  
7 copying and using their designs, not only do those designs  
8 lose value, but something that their clients, who did follow  
9 the rules, who did properly pay license fees, who invested  
10:48 10 their money and their business names in building and selling  
11 the houses -- those clients are hurt if someone else can  
12 just steal a design, use it for free and build a competing  
13 house that looks the same in the same neighborhood.

14           So, Preston Wood's business will be hurt,  
10:49 15 their investment in their business will be hurt, and their  
16 existing clients who played by the rules will be hurt if we  
17 can't bring a stop to this.

18           So, the reason that we're here before you --  
19 and we certainly appreciate your helping us with this  
10:49 20 dispute -- is to try to preserve what they've built and try  
21 to keep the value that they provided to other customers for  
22 those customers because that's the source of their business  
23 and their livelihood and their reputation, is treating their  
24 clients and their customers fairly.

10:49 25           We appreciate your being here. I know that



*Opening Statement by Mr. Strother*

1 you're going to pay attention to the evidence. And we look  
2 forward to presenting this case.

3 THE COURT: Thank you.

4 We'll now hear from the defense.

10:50 5 MR. STROTHER: May it please the Court --

6 THE COURT: Yes, sir.

7 MR. STROTHER: -- counsel, ladies and gentlemen of  
8 the jury.

9 There is really not much that I disagree with  
10:50 10 about what Mr. Zummo just said. I think that, with very few  
11 exceptions, the evidence is going to fall right in line with  
12 his prediction. There are some points of debate; otherwise,  
13 we wouldn't be here.

14 But I just wanted to highlight that you're not  
10:50 15 going to hear Plaintiffs and Defendants fighting about every  
16 single aspect of this lawsuit. I believe it's going to be  
17 fairly focused.

18 For example, the Defendants don't contest the  
19 validity of the copyrights in this case. They can't.  
10:50 20 Actually, the Court has already determined that those  
21 copyrights are valid. So, you're not going to hear  
22 arguments from Defendants that these copyrights are not  
23 valid.

24 As a Defendant -- as Defendants, we don't  
10:51 25 really get to steer the boat much about what we're going to

*Opening Statement by Mr. Strother*

1 be talking about in what order until we get to Defendants'  
2 case, which is after all of the Plaintiff witnesses have  
3 been called.

4 I point that out because there are five  
10:51 5 projects at issue here and they all have kind of different  
6 sets of facts.

7 The evidence is going to show you that Urban  
8 Living acted as broker on all five projects. And you'll  
9 eventually, I think, learn the names of each of these five  
10:51 10 projects.

11 You'll also learn the names or alphanumeric  
12 designations that the plans have from Preston Wood &  
13 Associates that they claim were infringed upon by these  
14 projects.

10:52 15 The evidence is also going to show you that  
16 Cameron Architects was involved in two of those five  
17 projects.

18 The D5-214 plan that Mr. Zummo mentioned a  
19 couple of times pertains chiefly to a project called Nagle  
10:52 20 Park Place. I think you'll often hear it referred to as  
21 just "Nagle", which I believe is the street name that the  
22 project is located on.

23 And the evidence is going to show you that  
24 Cameron Architects and Oppidan and Urban Living started with  
10:52 25 D5-214 to create that plan that was ultimately used to build

*Opening Statement by Mr. Strother*

1 six townhomes in that project.

2 So, there's not going to be debate about that.

3 I think you'll get to hear in detail how it happened. I  
4 understand Plaintiff's position, that they think this has to  
10:52 5 do with trust. We disagree.

6 I don't want to, as an attorney, come out and  
7 give you crocodile tears and say that it hurts that they're  
8 making this about trust. We'll deal with that. But you'll  
9 get to hear Mr. Ramani and Mr. Cameron testify about how

10:53 10 D5-214 came to be used.

11 There's going to be some debate about whether  
12 it was infringed, whether the ultimate plan used was  
13 substantially similar to what they started with. And you'll  
14 get questions probably from the Judge about that. That's  
10:53 15 where there will be some debate.

16 And, as Mr. Zummo said, you'll get to look at  
17 the plans side by side and make your evaluation. You may  
18 hear testimony from experts on both sides of the case about  
19 whether those -- D5-214, for example, is substantially  
10:53 20 similar to the plan used to build those six townhomes.

21 You may hear testimony from one or two experts  
22 about whether those plans have aspects within them that are  
23 not protectable under copyright law. I'll get to that in a  
24 minute.

10:54 25 So, as an attorney, I think architecture is

*Opening Statement by Mr. Strother*

1 interesting. I do. I do. I enjoy doing this case. I, at  
2 one time, kind of wanted to be an architect.

3 I went to business school and got to take  
4 electives, and one of my electives was appreciation of  
10:54 5 architecture. And it was fantastic. Without a doubt, it  
6 was fantastic.

7 My fourth year I went and talked with the  
8 architecture dean and found out that, because I had kind of  
9 tiptoed through business school and taken, you know,  
10:54 10 calculus for business students as opposed to real calculus  
11 and my science was astronomy as opposed to, you know,  
12 physics or whatever, that it would take me longer than five  
13 years to go back and get an undergraduate architecture  
14 degree. So, that went out the window.

10:54 15 I bring up architecture and its interests  
16 because I have bad news. I think we're going to leave  
17 architecture for a period of this case and go toward  
18 accounting.

19 As a business major, that's okay with me, and  
10:55 20 I think we have some people with some maybe accounting  
21 interests on the jury. Most people probably would say  
22 accounting is less interesting than architecture.

23 Let me explain what I mean about the turn  
24 toward accounting and what I think the evidence is going to  
10:55 25 show you in that regard.

*Opening Statement by Mr. Strother*

1 Your Honor, I would like to use the easel.

2 May I place it in front of the witness stand?

3 THE COURT: Yeah. Sure.

4 MR. STROTHER: Thank you.

10:55 5 Is this blocking your view?

6 THE COURT: No. Usually, you put it right in that  
7 area. Aim it to the jury, but canter it a little bit more  
8 this way. As long as I can see if there's an objection and  
9 the other side can see.

10:55 10 MR. STROTHER: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. STROTHER: And, Your Honor, while I'm over  
13 there, I will speak with a loud voice.

14 THE COURT: I was about to say that.

10:56 15 All right. Thank you.

16 MR. STROTHER: As we've all been talking about, at  
17 the end of this case, after all of the evidence has been  
18 presented, you're going to get a list of instructions from  
19 the Court and a list of questions.

10:56 20 I think both sides agree that one of the  
21 questions you're going to get is what are the gross revenues  
22 that each defendant earned from these five projects. There  
23 will probably be lines, one for each of the five projects.

24 I don't think there's much debate about what  
10:56 25 that number is. I anticipate that perhaps the Judge or us

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1 will end up reading to you an agreed list of numbers about  
2 at least what the commissions are that Urban Living earned  
3 and how much money Cameron Architects was paid on the two  
4 projects that it was involved in.

10:57 5 Right in that same question we anticipate that  
6 you're then going to be asked to determine what are the  
7 deductible expenses. This is where there's going to be a  
8 lot of debate. You will not be asked actually to do the  
9 math. They'll just appear in two columns.

10:57 10 But a lot of the evidence you're going to  
11 receive in this case has to do with deductible expenses.  
12 The evidence will show you what both Urban Living's and  
13 Cameron Architect's direct expenses are and then what their  
14 overhead is that they want to have included in deductible  
10:57 15 expenses.

16 I don't know yet what the Court's instruction  
17 is going to be in that regard with regard to us. I don't  
18 know yet what the Court's instruction is going to be with  
19 regard to overhead. Whatever it is, I trust that you'll  
10:58 20 follow that instruction. And, if it tells you to include  
21 overhead, you'll be able to have learned what the  
22 Defendants' overhead expenses actually are.

23 I'll tell you that the evidence will show you  
24 that, when you include overhead with regard to Cameron  
10:58 25 Architects, that they actually lost money on the Nagle

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1 project and that they earned zero money -- gross revenues  
2 would be zero -- on the other project in which they were  
3 involved.

4 And, also, I might as well say that, with  
10:58 5 regard to Urban Living, when you include the deductible  
6 expenses, you'll find that there was less money made than  
7 the gross revenues.

8 Let me take a brief moment and pause and make  
9 sure that you -- that I'm highlighting what the evidence is  
10:58 10 going to show you about who the Defendants are and what it  
11 is they do.

12 What Cameron Architects does and what Stephen  
13 Cameron does is probably fairly straightforward.

14 The evidence will show you that he's been a  
10:59 15 licensed architect since 1994 and that he has been designing  
16 homes and been doing work like this where he'll take stock  
17 plans and make them fit to a given need.

18 What Urban Living does starts off being  
19 straightforward, but then there's that additional layer that  
10:59 20 you're going to hear about.

21 Urban Living, of course, is a real estate  
22 brokerage. And the evidence will show you that Urban Living  
23 gets paid on sales of homes, as is customary in the  
24 industry. They receive a commission on the sales price that  
10:59 25 is ultimately paid, and the commission they receive is the

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1 traditional somewhere between 3 and 6 percent, usually. But  
2 you'll have the actual raw numbers; so, you'll know what a  
3 sales price was on a given house and how much commission  
4 Urban Living was paid on a given house.

11:00 5 The extra layer is that Urban Living has a  
6 department within it -- I call it a department -- it could  
7 be a product line or something like that -- that they refer  
8 to as "Urban Project Management". You might hear that  
9 referred to as "UPM".

11:00 10 What that is, the evidence will show you, is  
11 that Urban Living offers other services to builders who are  
12 in the market to build homes. And, in this case, they did  
13 offer those services one or two times, I believe.

14 The kinds of services they offer would include  
11:00 15 helping the builder replat a piece of land so that it can be  
16 used for high-density construction; that is, instead of  
17 there being two lots that have one home on it and one home  
18 on it, they'll help put those lots together and then make it  
19 so that they can be 16 townhomes on it.

11:00 20 And, of course, one of the features -- or one  
21 of the services they offer is helping the builder with  
22 plans. Sometimes, as it was with regard to the Nagle  
23 project, they would link up the builder with plans and  
24 then hire someone like Cameron -- or link up Cameron  
11:01 25 Architects -- someone like Cameron Architects with the



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1 builder so that the plans could then come to fruition and be  
2 used.

3 So, after you have those two numbers, you're  
4 likely to get a question right after that. And I think  
11:01 5 there's going to be even more debate about this question.

6 The question is going to ask you to write down  
7 a number for each of the five projects, and it's going to be  
8 a percentage number, a number between 0 and 100 percent.  
9 And it's probably going to be worded like "percent of profit  
11:01 10 due" -- pardon my handwriting -- "due to factors other than  
11 infringement."

12 In my opinion, this is what the case is going  
13 to be about because, while there's some debate about  
14 infringement and little debate about where some of the plans  
11:02 15 started from, there's going to be a lot of debate about what  
16 percent of the profit that either of the Defendants earned  
17 came from other factors.

18 Gross revenues minus deductible expenses you  
19 can call profit.

11:02 20 And with regard to profit, you're going to  
21 hear me refer to -- I'll write "profit" here so you can know  
22 what we're talking about. With regard to profit, here we'll  
23 be referring to it as a pie. And, so, that question is  
24 going to ask you to determine what percentage of the profit,  
11:03 25 what size piece of the pie, is due to stuff other than

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1 infringement.

2 And for the moment, I'm going to refer to  
3 "infringement" as "design" because what we're talking about  
4 is whether -- when Urban Living sold a home, did the buyer  
11:03 5 pay money for that design?

6 That answer is "yes". That's part of the  
7 sales price of the home. That's part of the money that the  
8 builder would have to pay. Right?

9 So, the evidence is going to show you -- it's  
11:03 10 going to provide information to you so that you can  
11 determine what percentages are attributable to various  
12 aspects of a home purchase.

13 I'm not going to draw the design in yet and  
14 you'll see why in a second. I'm going to make a list of  
11:03 15 what the evidence is going to show you the other aspects  
16 that go into determining a home price. Some of them are  
17 obvious.

18 The evidence will show you that, in order to  
19 have a home, you've got to have land on which to build that  
11:04 20 home. Land is where the axiom "location, location,  
21 location" comes from. It's what location goes to.

22 And, so, when a new townhome is built -- And,  
23 by the way, the evidence will show you -- I think the sales  
24 value of these townhomes was between around \$330,000 to the  
11:04 25 upper end of, I think, \$540,000. I could be off a little

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1 bit, but that's the general range I think the evidence is  
2 going to show you.

3 And, so, you'll have evidence about --

4 THE COURT: Yes, sir.

11:04 5 MR. ZUMMO: Your Honor, may we approach?

6 THE COURT: What's your objection?

7 MR. ZUMMO: The objection deals with the Court's  
8 pretrial motion. It was never -- The ruling on our  
9 motion --

11:04 10 THE COURT: All right. Do you understand what he's  
11 talking about?

12 MR. STROTHER: I'd like to consult him for a  
13 moment.

14 THE COURT: Why don't you talk to him about it.

11:04 15 (Counsel confer)

16 THE COURT: If there's a concern, just veer around  
17 it and, when it comes up in testimony, I'll consider it.  
18 Oh. Do you need to approach the bench?

19 MR. STROTHER: It's a significant issue, Your  
11:05 20 Honor.

21 THE COURT: All right. Come on up.

22 (At the bench)

23 THE COURT: Okay. That's the only microphone on.

24 So, whose motion?

11:05 25 Your motion?

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1 MR. ZUMMO: Plaintiff's motion in limine, No. 9.

2 THE COURT: What number?

3 MR. ZUMMO: No. 9.

4 THE COURT: Let me look at it.

11:05 5 Okay. Now, what's the concern?

6 MR. ZUMMO: The concern is what -- Mr. Strother is  
7 detailing evidence for the jury, what he thinks it'll show,  
8 involves Section 504(b), which was expressly --

9 THE COURT: Okay. Hang on.

11:06 10 MR. ZUMMO: -- covered in your --

11 THE COURT: Let me read it.

12 Okay. Now, you're saying that's --

13 MR. ZUMMO: Section 504(b) of the Copyright Act,  
14 which we have a copy -- well, we can provide a copy for the  
11:06 15 Court -- says -- that's where the burden of proof is laid  
16 out -- that plaintiff proves the gross revenues. The  
17 defendant proves deductible expenses and any elements of  
18 profit attributable to factors other than the copyrighted  
19 work.

11:06 20 What Mr. Strother is going into are the second  
21 part of that section, Section 504(b), and nothing was  
22 disclosed in pretrial disclosures or discovery on what those  
23 deductions were going to be.

24 THE COURT: Your response?

11:06 25 MR. STROTHER: Number one, Section 504(b) goes

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1 toward the deductible expenses. It doesn't go toward  
2 determining factors other than -- the factors other than the  
3 infringement, which is the second question.

4 THE COURT: All right. Go on.

11:07 5 MR. STROTHER: The second thing is, Your Honor, we  
6 disclosed what we were required to disclose so that, on this  
7 third question, they didn't ask pointed-enough -- I see  
8 their interrogatory there -- pointed-enough discovery --

9 THE COURT: All right. I'm going to sustain the  
11:07 10 objection for the purpose of opening statement only. For  
11 opening statement only.

12 When it comes up during trial, have a copy of  
13 the statute and have a copy of the responses and so forth,  
14 and I'll consider it for the purposes only for opening  
11:07 15 statement without prejudice. Just move on opening  
16 statement.

17 MR. STROTHER: Yes, Your Honor.

18 THE COURT: When it comes up during trial, remind  
19 me. We'll excuse the jury and we'll talk about it.

11:07 20 MR. STROTHER: Yes, Your Honor.

21 THE COURT: All right.

22 (In open court)

23 MR. STROTHER: Your Honor, may I proceed?

24 THE COURT: Yes, sir.

11:07 25 MR. STROTHER: So, with regard to the third

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1 question, when you're looking at what the percentages are  
2 that you should assign to factors other than infringement,  
3 that is a logical algebra equation -- right? -- because --  
4 pardon me for getting maths for a minute -- X plus Y equals  
11:08 5 Z.

6 You're talking about percentages and, so,  
7 you're going to have Z be 100 percent. Factors due to  
8 infringement is going to be one number. Factors other than  
9 infringement will be another number.

11:08 10 So, factors due to infringement are going to  
11 have a very, very solid piece of evidence, and that is what  
12 the actual value is of how much Urban Living was paying  
13 Preston Wood for the plans.

14 Plaintiff's Exhibit No. 1, which Mr. Zummo  
11:08 15 mentioned, tells you precisely how much Urban Living had to  
16 pay Preston Wood for each use of the plan, and it's a  
17 per-house cost. It's \$250, \$250 for one plan that's going  
18 to be used to create a house that is going to be sold  
19 between 330- and \$540,000.

11:09 20 I expect you'll hear other evidence, but I'm  
21 certain, because it's already in Plaintiff's Exhibit No. 1,  
22 that you're going to hear that piece of evidence.

23 So, ladies and gentlemen, the other areas of  
24 debate that I think you'll hear have to do with the  
11:09 25 substantial similarity or lack thereof between plans that

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1 Preston Wood is claiming were infringed upon.

2           You're going to see the Nagle plans -- and  
3 that's going to have one level of similarity or not -- all  
4 the way to plans that were not part of Urban Living's UPM  
11:10 5 program, meaning there are plans that other architects, not  
6 Stephen Cameron, came up with, or designers, and used by  
7 builders that weren't provided by Urban Living.

8           It doesn't matter, by the way. It doesn't  
9 matter, by the way, if Urban Living knew or didn't know that  
11:10 10 the plans were infringing. That's not part of copyright  
11 law. I think you'll get an instruction about that, too, but  
12 you will get to hear the story.

13           Another area of debate I mentioned that I said  
14 I'd come back to is the idea of protectable and  
11:10 15 unprotectable elements. I won't go into much detail about  
16 that right now other than to say I think you'll get an  
17 instruction that will explain to you that standard and  
18 common elements and a copyrighted plan can still be copied.

19           That's an unusual principle that you'll get  
11:11 20 instructed, but it is what it is. "You can't have a" --  
21 "You can't enforce a valid copyright to the extent it's made  
22 of standard components" or something like that.

23           Finally, Mr. Zummo mentioned the idea that  
24 Urban Living had distributed works by Preston Wood &  
11:11 25 Associates that they contend copyright information had been

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1 altered or removed. There's going to be significant debate  
2 about that.

3 Urban Living absolutely denies distributing  
4 works that had copyright material altered or removed. So,  
11:11 5 when you hear the evidence that both sides are putting on,  
6 remember those two words, "altered" and "removed".

7 And, with that, I will finish. Thank you for  
8 your time. We look forward to presenting the case to you.

9 THE COURT: All right. Plaintiff, call your first  
11:11 10 witness.

11 MR. ZUMMO: Plaintiff calls Preston Wood, Your  
12 Honor.

13 THE COURT: Sir, raise your right hand and be  
14 sworn.

11:12 15 **PRESTON WOOD, THE PLAINTIFF, SWORN**

16 THE COURT: By the way, ladies and gentlemen --  
17 just have a seat, sir -- what I do is I make little, short  
18 notes as to each witness.

19 Also, if things go on that you're not aware  
11:12 20 of -- okay? -- you'll see I grab a red pen and mark that  
21 down.

22 When I come back and visit with you -- I do it  
23 after every trial up to an hour -- and answer any questions,  
24 I'll let you know what was going on that you weren't aware  
11:12 25 of.



*P. Wood - Direct by Mr. Zummo*

1                   So, if you see me making notes -- short notes,  
2   I note down each witness, what they're about and then  
3   sometimes, if something happens during that witness's  
4   testimony, if you're in the jury room or whatever, I'll  
11:12 5   write it down and we'll visit later on about it.

6                   All right. Counsel, go right ahead.

7                   MR. ZUMMO: Yes, Your Honor. Thank you.

8                   DIRECT EXAMINATION

9   By Mr. Zummo:

11:12 10   Q. Would you tell us your name, please.

11   A. Preston Wood.

12                   THE COURT: Pull the mic in a little bit, please.

13   Q. Mr. Wood, what is your line of work?

14   A. Residential architecture, residential design.

11:13 15   Q. And do you have any certifications in this field?

16   A. Yes, I do.

17   Q. What certification do you have?

18   A. American Institute of Building Design.

19   Q. How long have you been certified by that group?

11:13 20   A. 35 years.

21   Q. What was involved in getting that certification?

22   A. I submitted a full set of drawings as an example set for  
23   their approval, took a test. Those were the requirements.

24   Q. What is your connection to the company called Preston  
11:13 25   Wood & Associates, LLC?

*P. Wood - Direct by Mr. Zummo*

1 A. I'm the primary designer. My wife and I started the  
2 company back in the early '80s and have continued it ever  
3 since until three or five years ago.

4 Q. Why has Preston Wood & Associates brought this lawsuit?

11:13 5 A. We feel like we -- our lifework has been stolen.

6 Q. Let's talk a little bit about your lifework.

7 First, you mentioned Sam. Are you married to  
8 Samantha Wood?

9 A. I am.

11:14 10 Q. And how long have you been married?

11 A. 41 years.

12 Q. Do you have any children?

13 A. Yes, we do. Two.

14 Q. And --

11:14 15 A. And now two grandchildren --

16 Q. Congratulations.

17 A. -- as of a week ago.

18 Q. Where did you grow up?

19 A. I was born in Houston, but my dad was in the chemical  
11:14 20 business related to the oil business. So, we lived all over  
21 the South, from Texas, to Mississippi, to Florida, and back  
22 to Texas my senior year of high school.

23 Q. Where did you graduate from high school?

24 A. I graduated from Spring High School out on the north  
11:14 25 side of town.

*P. Wood - Direct by Mr. Zummo*

1 Q. Now, this case, as the jury has heard, is about home  
2 design.

3 When did you first have any interest in home  
4 design?

11:14 5 A. I mean, I had interest as a kid. I'd always been  
6 somewhat interested. I knew I wanted to go to school to  
7 study architecture. I had worked in and around the building  
8 construction industry in Houston in summers.

9 But I -- My dad used to use me as a party  
11:15 10 trick. As a kid, at 8 or 9 years old, we'd go to people's  
11 houses and the kids would go play and do one thing and the  
12 parents would go play cards or whatever they were doing, and  
13 then they'd call everybody in for dinner.

14 And, before we ate dinner, Dad would give me a  
11:15 15 piece of paper and a pen and say, "Okay. Draw the house."

16 And, so, I had to be observant enough, as I'm  
17 playing around with the kids, to go sketch their plan. So,  
18 I came by it naturally. I'd done it since a kid. I loved  
19 doing it.

11:15 20 It's not a job. It's not a business. It's a  
21 passion. I do it because I love it. I always have and I  
22 always will.

23 Q. When you graduated from high school, was it your plan to  
24 go in to study that as a field of your line of work?

11:15 25 A. Yes. I applied and went to Texas A&M, studying

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1 environmental design, which was the understudy for  
2 architecture, and double-majored in building construction,  
3 building science as well, with the idea of doing both.

4 Q. When you were a student at A&M, were you a full-time  
11:16 5 student or were you working your way through school?

6 A. I was a full-time student except for summers. I worked  
7 summers as a roofing contractor. A buddy of mine and I had  
8 a little outfit that we would subcontract roofs out and roof  
9 houses and got a good feel for working around framers, the  
11:16 10 guys who were putting the houses together. So, we got good  
11 experience around homes at that point that helped, I think,  
12 all during our life.

13 Q. What kind of homebuilders did you work for as a roofing  
14 contractor?

11:16 15 A. Mostly suburban homebuilders that were building the  
16 typical homes around Houston in the late '70s, mostly on the  
17 north side. That's where we lived.

18 Q. And did you only help these homebuilders with roofing or  
19 did you ultimately do more?

11:17 20 A. No. As we got proficient with seeing how the houses  
21 went together -- And I knew how to design houses. I had  
22 always sketched houses and sketched remodels for friends and  
23 done basic drawings, started putting together my own work  
24 drawings.

11:17 25 A couple of summers we -- I had a builder that

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1 wanted us to do their plans for them and I drew a plan --

2 THE COURT REPORTER: Would you speak slower,  
3 please.

4 THE WITNESS: I'm sorry. Take a breath.

11:17 5 THE COURT: You can always tell when the court  
6 reporter has problems: if his machine starts smoking up.  
7 That's a dead giveaway.

8 All right. Go on.

9 A. Anyway, I did several just myself. I designed them and  
11:17 10 drew the plans myself for a couple of builder friends,  
11 clients, during those summers as well.

12 By Mr. Zummo:

13 Q. As you continued to attend Texas A&M, over time did you  
14 do more and more of this home design work?

11:17 15 A. Yeah. It really kind of took over. I was doing it a  
16 lot and actually left A&M without finishing because the  
17 business -- I was driving back and forth so much it was  
18 getting crazy. So, I started the business and am still  
19 doing it. It hasn't really changed.

11:18 20 Q. So, what year was it that you stopped attending Texas  
21 A&M and started the business full-time?

22 A. '78. Late '78, early '79.

23 Q. Were you married to Sam by then?

24 A. We weren't married -- Yeah. Excuse me. We were  
11:18 25 married.

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1 Q. This is a -- This is a bad --

2 A. This is an easy question. Yeah. Excuse me.

3 Yeah. We were married. Yes. Yes. I was  
4 married to Sam. '77, to be exact. Yeah.

11:18 5 Q. Did Sam help you in your home design business from the  
6 very beginning?

7 A. Absolutely. She was a broker at the time. So, she was  
8 in the real estate industry. We discussed what I was  
9 designing, why I did certain things, why I needed to change  
11:19 10 what I was doing. Maybe there were different things she was  
11 seeing in the market. I was -- We'd compare and discuss all  
12 the time.

13 Q. What was it like in the early days of your business?

14 A. It was primarily doing homes for builders and gradually  
11:19 15 starting doing more and more individuals as the name got out  
16 there, but it was all homes for builders and individuals  
17 around the north and primarily the west side of the city.

18 As the business grew and I started doing work  
19 in Clear Lake and Sugar Land and I would have to leave the  
11:19 20 office on the north side of town to drive to Clear Lake and  
21 back, the whole day would be gone.

22 So, I said we've got to move to the middle.  
23 So, we moved in to town in the early '80s to avoid that  
24 madness and discovered townhomes, really.

11:19 25 Q. What was the first townhome project that you worked on?

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1 A. It was a project that -- Samantha, again, was doing her  
2 real estate, and she had a real good client that had a  
3 project that wasn't doing well. And he -- Sam took over  
4 that project and sold it out.

11:20 5 We got to be good friends, and they liked what  
6 we did with that. So, we decided to -- We had moved in --  
7 or we were going back and forth at that point and hadn't  
8 moved in yet.

9 But we decided that maybe we should  
11:20 10 joint-venture a project and we would design it and build it  
11 and sell it ourself and they would finance it. And we did  
12 the first project called Trolley Square in Montrose in 1983.

13 Q. And just in general, what was involved in that project,  
14 like the size and the number of units?

11:20 15 A. It was a corner lot in Montrose that was probably 75 by  
16 150 or something, but it was -- We put seven attached homes  
17 on that.

18 All front of the streets -- or front doors are  
19 on the streets, and there was a big common courtyard in the  
11:20 20 back, relatively small, but it worked very well.

21 And, at that time, it was Victorian style in  
22 nature. That was very popular at the time. And, so, it  
23 looks like a little piece of San Francisco in Montrose.

24 Q. Was the project successful?

11:21 25 A. It was very successful. It sold out before we were

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1 finished. So, we moved on to do two more projects with the  
2 same investors.

3 Q. What did you learn about townhouse design and  
4 development from doing those first projects?

11:21 5 A. A lot. Very complicated. The single-family homes that  
6 we were doing prior to that I could do in my sleep after  
7 doing that first townhouse, but it's very complicated -- the  
8 code issues, the egress issues, the -- It's just the fact  
9 that the spaces are relatively small and how to make every  
11:21 10 inch useable.

11 I didn't figure it all out on that project  
12 but, in subsequent projects, gradually figured that out, how  
13 to make that work.

14 Q. Can you give the jury one or two examples of the  
11:21 15 features in that townhome that, as you have said, are very  
16 hard to design.

17 A. The staircase is extremely complicated. The rooms are  
18 rooms, but how you get from floor to floor -- Almost always  
19 there are three floors, different than a house that just has  
11:22 20 two floors, generally. And some are even four stories that  
21 we've done.

22 Getting the stair up through there, getting --  
23 maneuvering through the floors and then again getting the  
24 mechanical systems, the air conditioning and the heating,  
11:22 25 back down through the floors to all the rooms efficiently



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1 and actually work is the challenge.

2 Q. And since you started doing townhomes -- Did you say in  
3 the early '80s?

4 A. Correct.

11:22 5 Q. Since you started doing townhomes, can you give us an  
6 estimate of what percentage or what proportion of the  
7 designs you've done have been townhomes versus freestanding  
8 houses?

9 A. Originally, it was probably -- In the early '80s, it was  
11:22 10 probably still 80 percent single-family homes and 20 percent  
11 townhouses. It gradually over the next 10 or 15 years  
12 almost was opposite that so that somewhere between 70 and  
13 80 percent of our work was townhomes and only 20 or  
14 30 percent was single-family.

11:23 15 We realized that it was a unique type of  
16 design. There weren't a lot of people -- I had a real good  
17 friend, Larry Gronet, that was a designer that sold stock  
18 plans, and I always thought that was an interesting way to  
19 kind of take the design business in the future.

11:23 20 So, we thought, well, these townhouse --  
21 there's not very many people that have townhouse stock  
22 plans. So, as we started creating more and more and got  
23 better and better at it, we thought this would be perfect  
24 for the end result of this business.

11:23 25 Q. Tell us, in your business, what do you mean by "stock

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1 plan"?

2 A. It's a plan that we've gone through and created.

3 Usually, it's for a specific client or a very specific lot  
4 and it has very specific requirements.

11:24 5 But when you start doing townhouses,  
6 especially, the lot sizes start to get familiar. There's  
7 probably umpteen, still, lots of different ones because we  
8 have thousands of plans, but they fit into certain  
9 categories.

11:24 10 So, we --

11 Q. Well, give us an example. What would be one of those  
12 standard lot sizes that you are asked to work with?

13 A. Well, in Houston, we don't have zoning, but we have  
14 requirements -- planning requirements, and one of those is  
11:24 15 that you can't build at a higher density with single-family  
16 homes, higher than 27 per acre.

17 And I think they came up with that by taking a  
18 standard inner-city 50-by-100 lot and they thought it  
19 probably makes sense to put three townhouses on that.

11:24 20 So, they just kind of backed into a number.  
21 Three townhouses on a 50-by-100 is almost exactly  
22 27-per-acre max and came up with this footprint, this lot  
23 size, that's about 1,600 square feet. So -- But the lot can  
24 only be covered by 60 percent of the house. So, the house  
11:25 25 footprint ends up being around 800 square feet.

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1                   So, that 20-by-40 kind of becomes a fairly  
2     typical townhouse in Houston, if it's max density.

3     Q.   And when you say "footprint" tell us exactly what you  
4     mean by the footprint of the building.

11:25 5     A.   The footprint is the slab area or the space that's  
6     covered and enclosed on the first floor, on the ground  
7     floor.

8     Q.   So, for that 20-by-40 footprint that's one of the  
9     standard slab sizes, do you have just one design for that  
11:26 10    slab?

11    A.   No.   We have hundreds, if not thousands.   I know there's  
12    many hundred.

13    Q.   And when we talk -- Are you familiar with the designs  
14    that are at issue in this lawsuit?

11:26 15    A.   Yes, I am.

16    Q.   As we explain those designs to the jury, will you be  
17    able to explain how they are similar and how they're  
18    different?

19    A.   Yes, I can.

11:26 20    Q.   And as we go through that series of questions about the  
21    designs that are actually at issue in this lawsuit, will you  
22    be able to use those as examples of the process you go  
23    through to design a townhome?

24    A.   Yes.

11:26 25    Q.   In your business, you mentioned the stock plan.

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1 Do you also design some homes completely  
2 without any previous plan that you're working from?

3 A. Absolutely.

4 Q. And in your business, do you have any kind of an  
11:27 5 estimate of what part of your business comes from the  
6 preexisting stock plans and what part comes from new design?

7 A. I have never sat down and figured out the percentage,  
8 but my job has always been new product. I get involved in  
9 modifications, usually, just for a few minutes to suggest  
11:27 10 solutions.

11 But I typically -- I used to joke that Sam  
12 just puts me in the corner of a room and let's me sketch  
13 because that's what I like to do.

14 And I'm always sketching the designs. And  
11:27 15 Mr. Weekley used to call me the "yes man" because I never  
16 say, 'No, we can't do that.' There's always a way to make  
17 it work.

18 Q. You mentioned Mr. Weekley.

19 Are you currently employed still by Preston  
11:27 20 Wood & Associates?

21 A. No, I'm not.

22 Q. Who is your employer today?

23 A. David Weekley. We were doing contract work for them  
24 six, seven years ago and really liked the organization, the  
11:28 25 people involved in the organization.

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1                   They liked our design work. They were very --  
2                   They were doing lots of projects with us. They were very  
3                   profitable. And they decided that was a new business they  
4                   wanted to take their company in and doing more higher  
11:28 5                   density townhome-type stuff.

6                   They'd never really done them in the past --  
7                   or not much. They had done a few. And after a number of  
8                   years they came to me and approach me and said, "Would you  
9                   consider joining us and leaving -- You can keep your  
11:28 10                  existing business. Sam can keep that business. All of our  
11                  portfolio we want to take with you and as many of your  
12                  employees as will come and create a new division at  
13                  Weekley."

14                  So, in -- almost exactly five years ago next  
11:28 15                  month, I made that move and left Sam and two other employees  
16                  to run Preston Wood & Associates.

17                  Q. So, after you made the move to David Weekley Homes, what  
18                  was the business of Preston Wood & Associates?

19                  A. Primarily, stock plans and minor redraws because they  
11:29 20                  didn't have a designer anymore. They had lots of plans, but  
21                  that's pretty much it.

22                  Q. When you say "lots of plans", do you have an actual  
23                  count of the number of stock plans that you had?

24                  A. I've never counted because we have three big -- three  
11:29 25                  standing file cabinets. From the floor, they're 6 feet wide

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1 and 4 feet deep and 5 feet tall that are filled with all the  
2 old plans that we used to draw by ink on vellum.

3           Once we changed to computer, we can give a  
4 count of that, and it's many thousands. I've never really  
11:29 5 gone and looked it up.

6           But we do -- For instance, since the early  
7 mid-'90s up through Two Thousand -- until five years ago,  
8 2013, we were doing -- we log in, plus or minus, 200  
9 projects a year. And some of those projects were townhouse  
11:30 10 projects that might have 150 to 150 individual homes within  
11 that project. So, that's a lot. It's many thousand.

12 Q. Before you went to David Weekley Homes, can you tell us  
13 what would be the typical -- or some samples of the typical  
14 ways that builders would come to you and you'd work with  
11:30 15 them to select plans or design new plans for them?

16 A. They generally would find a piece of property first and  
17 they would come to us with a piece of property. Some would  
18 have a real strong idea of, 'I want a 2,500-square-foot  
19 house, three floors. I want to get six of them on this lot'  
11:31 20 or however many.

21           And we would show them how to do that or they  
22 would -- Some of them would come to us and say, 'What can  
23 you do with this lot?' because we had some sites that were  
24 very irregular shaped and they -- Because of the price of  
11:31 25 the land being as expensive as it was, they needed to put a

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1 lot of homes on it.

2 So, our interpretation of that initial  
3 question -- or our answer to that initial question often was  
4 very different than what we first started out with.

11:31 5 Q. At what point would you make a decision whether to try  
6 to use existing stock plans or do a new design?

7 A. As we got to the point where we had lots of stock plans,  
8 it became very -- it was just good business. It was quicker  
9 for us to get to a finished product. We could charge the  
11:31 10 clients less. So, he liked it better. It was better for  
11 everybody.

12 So, we very quickly learned how to create  
13 plans that would be efficient to build and we could make  
14 relatively easy changes to make them work in different  
11:32 15 locations or for different clients.

16 Q. With your stock plans, how often was it that the stock  
17 plan that you presented to the client was exactly what got  
18 built?

19 A. Not very often. Probably one a year, maybe five a year.  
11:32 20 I don't know. But not very often.

21 Q. And why is that?

22 A. Every client -- Every site has a different need. The  
23 views are different. What's next to that building is  
24 different. Client needs are different.

11:32 25 So, there's lots of things that cause -- The

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1 basic arrangement they may like, but the specifics of the  
2 design, it can be totally different. It goes to the same  
3 basic arrangement.

4 Q. Now, the jury will see some exhibits in this case that  
11:33 5 are registration certificates with the United States  
6 Copyright Office to register copyrights in the designs that  
7 are the subject of this case.

8 You've seen those registration certificates?

9 A. Yes, I have.

11:33 10 Q. On those registration certificates, there -- some of  
11 them have names that are different from "Preston Wood &  
12 Associates, LLC". For example, some have the name of "Jack  
13 Preston Wood Design, Inc."

14 Did you have a relationship with that company?

11:33 15 A. My full name is Jack Preston Wood. And, so, the  
16 original company was Jack Preston Wood.

17 Q. There's another name on some of the certificates that  
18 includes the word "Architecton".

19 A. "Architecton" is a word that I had read about way back  
11:33 20 when that's an ancient Greek word that means "master  
21 builder", which is what I envision -- or what I wanted when  
22 I dreamed to be -- "Master builder" meaning you created the  
23 design and built it.

24 Q. Since you started your business in the late 1970s up  
11:34 25 till now, have you done your design work under one of those



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1 three names?

2 A. All three.

3 Q. And when you went from one company name to another, did  
4 the new company obtain the rights to the copyrights and the  
11:34 5 works that you'd done before?

6 A. Yes.

7 Q. So, today does Preston Wood & Associates, LLC, own all  
8 of the designs that you've done over the course of your  
9 career?

11:34 10 A. Yes.

11 Q. Can you tell us your personal involvement in any  
12 business relationship that Preston Wood & Associates, LLC,  
13 has had with Vinod Ramani and Urban Living?

14 A. We did lots of things together over the years. Vinod  
11:35 15 worked with a lot of the same builders that we worked with.  
16 He represented them and sold the homes eventually.

17 So, we listened to Vinod as far as what the  
18 buyers were looking for. We wanted that input. We listened  
19 to lots of the realtors around town and our individual  
11:35 20 clients. We would go out to the job site and actually talk  
21 to them at times.

22 So, we had relationships where he would bring  
23 the builder to us or he would find the site and ask, "What  
24 do you think we can do with this?" So, there were many  
11:35 25 times that we had tried to work things together.

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1 Q. At some point, did you have a change in that  
2 relationship?

3 A. Well, yeah, after we came up with the relationship.  
4 Once I went to Weekley, then the stock plan business came  
11:35 5 into this new arrangement that we're talking about here  
6 today.

7 Q. And were you personally involved in the negotiations  
8 with Mr. Ramani and his company for that relationship or was  
9 that handled by Sam?

11:36 10 A. That was primarily handled by Sam.

11 Q. And, as far as the day-to-day operation, once you signed  
12 the new contract with Urban Living, was that handled by you  
13 or was that handled by Sam?

14 A. By Sam completely. I had a full-time job.

11:36 15 Q. So, if it -- To save time, would we be better served by  
16 asking Sam questions about that contract and that  
17 relationship rather than you?

18 A. Yeah. Yes.

19 Q. But are you the person that we should talk to at your  
11:36 20 company about the actual designs that are involved?

21 A. Yes.

22 Q. And why is that?

23 A. Because I did 95 percent of the designs. I had as many  
24 as 25 employees over the years at different times as the  
11:36 25 market increased and decreased, and I've had a couple of

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1 other talented designers that have worked with me over the  
2 years. But most of it, either I did it myself or I oversaw  
3 it.

4 Q. Is one of the designs that's at issue in this lawsuit a  
11:37 5 plan that your company calls the D5-214?

6 A. Yes, it is.

7 Q. And are you familiar with that design?

8 A. Yes, I am.

9 Q. Did you do that design?

11:37 10 A. Yes, I did.

11 Q. What was the process that you went through to create the  
12 D5-214 design?

13 A. It was a derivative of a previous work that we had done  
14 years before. That project, D5-214, was a specific site  
11:37 15 over off Harvard and 2nd Street. It was a very  
16 irregular-shape piece of property, like we talked about  
17 earlier.

18 So, we were tasked with how can we get as many  
19 homes on here that all have a little yard, that have some --  
11:38 20 It's close enough to downtown that they all have some views  
21 towards the downtown skyline; so, we're trying to take  
22 advantage of that.

23 We also typically -- I know because I see it  
24 all the time now at Weekley where I go into different cities  
11:38 25 where they give me a piece of land that is kind of like this

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1 site that we're talking about and they run an alley through  
2 the middle of it and they put detached garages right up  
3 against the alley and then they detach the homes towards the  
4 front.

11:38 5 And it's not bad. You have little yards  
6 between the house and garage, and that's okay, but the views  
7 out the back are -- As you drive home at night, you're  
8 driving down this alley with nothing but garage doors. It's  
9 just not a very pleasant experience.

11:38 10 And with townhouses where we have a view,  
11 potentially, of the skyline, which is Houston's greatest  
12 asset, if I can pull the houses farther apart and create a  
13 common green in the center, at least some open space that  
14 they can look across, we'll locate the mail kiosk out there.  
11:39 15 The neighbors will get to know each other in this community.

16 We became very proficient at creating  
17 communities. So, this was one of the early communities that  
18 was 40 units -- I think there were 40 lots, 35 lots, in that  
19 neighborhood.

11:39 20 But, anyway, we did that. So....

21 Q. And you said that D5-214 was a "derivative". What  
22 exactly do you mean when you use that term?

23 A. It came from a previous plan or it was a modification of  
24 a previous plan that we already had in our library.

11:39 25 Q. And do you remember the name of the previous plan?

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1 A. Yeah. It was probably the first community we ever did  
2 in the late '90s this size, 44 lots. It was over in  
3 Montrose at the cul-de-sac dead end of Hyde Park Street.

4 And it was a couple of old apartment buildings  
11:39 5 they tore down and gave us this -- again, a very irregular  
6 site.

7 And we designed a community of homes around  
8 that, and there were two plans in that community that the  
9 D5-214 basically came from.

11:40 10 Q. And what were those two plans called at your company?

11 A. One was the Buckingham, and one was the Ashford.

12 MR. ZUMMO: Your Honor, could we put up the  
13 demonstrative evidence?

14 THE COURT: What do you need?

11:40 15 MR. ZUMMO: We want to use the --

16 THE COURT: Computer?

17 MR. ZUMMO: -- the computer.

18 THE COURT: Okay. Hang on a second.

19 MR. ZUMMO: And we're going to move the easel so  
11:40 20 that it's not in the way of the screen, Your Honor.

21 MR. STROTHER: I'm sorry, Your Honor. I -- Never  
22 mind. Apologize for the interruption.

23 By Mr. Zummo:

24 Q. Mr. Wood, does this diagram show the order in which  
11:40 25 these plans were done and modified?

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1 A. Yes, it does. D5-214.

2 Q. So, I'd like to turn to Page 1 of Plaintiff's Exhibit 9.  
3 And is this the title page for the set of plans for the  
4 Buckingham?

11:40 5 A. Yes, it was.

6 Q. Can you tell us, in general, what you were doing when  
7 you designed the Buckingham.

8 A. Well, the idea was that it was kind of a modern-day  
9 French-influenced French style as far as the exterior.

11:41 10 THE COURT: Where is the Buckingham located?

11 THE WITNESS: Where that plan is located?

12 THE COURT: No. Where is the project located?

13 THE WITNESS: It's in Montrose at the end of Hyde  
14 Park Street.

11:41 15 THE COURT: Okay.

16 THE WITNESS: So, this was the front, the little  
17 arches on the side. You'd walk through that. And the front  
18 door was back on the side.

19 And the Buckingham -- The front, what we're  
11:41 20 looking at, looked to the west, away from the city, and the  
21 back faced due east towards the downtown skyline.

22 By Mr. Zummo:

23 Q. Can we look at the first floor plan, which is part of  
24 the next page of Plaintiff's Exhibit 9.

11:42 25 MR. ZUMMO: And, Your Honor, can I give --

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1 THE COURT: What do you need?

2 MR. ZUMMO: -- Mr. Wood a laser pointer --

3 THE COURT: Pardon me?

4 MR. ZUMMO: -- so that he can --

11:42 5 THE COURT: Yeah. Sure.

6 By Mr. Zummo:

7 Q. This might help you in pointing out things --

8 THE COURT: The thing is, as we all know, we have  
9 to look here and not on our screen. So, go right ahead.

11:42 10 MR. ZUMMO: Your Honor --

11 THE COURT: No. No.

12 MR. ZUMMO: Sorry.

13 THE COURT: See where the -- What's the matter?

14 MR. STROTHER: We've turned these on, but we still  
11:42 15 can't see on these screens. Is there a button that needs to  
16 be pressed?

17 THE COURT: Not that I press. I can press another  
18 button and see if we can get Ellen in here. I have a whole  
19 set of buttons here.

11:42 20 MR. STROTHER: I'll sit here for the time being,  
21 Your Honor.

22 THE COURT: All right.

23 MR. STROTHER: Thank you.

24 MR. ZUMMO: So, is it okay if I proceed?

11:42 25 MR. STROTHER: Yes, please.

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1 THE COURT: Well, here. Here's the expert. I'll  
2 stop the clock.

3 We can't get the TV on there, in other words,  
4 the screen. Ellen, should we take a short break? Yeah.

11:43 5 We need to take a break anyhow. Usually, it's  
6 at an hour and a half. We got underway about 10:20. Just  
7 check your clock. It's now about 11:45. Let's get back in  
8 at 11:55. Okay? It's a little more than ten minutes.  
9 We'll see you back at about five minutes to 12:00 and then  
11:43 10 we'll go on right till about 1 o'clock.

11 (Brief recess)

12 (Jury not present)

13 THE COURT: While the jury is out, the stipulated  
14 facts.

11:44 15 First of all, if anything ends up in the jury,  
16 from now on, let's make sure we X-out those other  
17 non-parties. Okay?

18 I understand the inner workings, but there's a  
19 number of ways we can handle this that you can -- I could  
11:44 20 read this during summation. We could -- You could  
21 short-circuit a lot of this to read it in. So, you don't  
22 have to read all of the numbers of each one of these things  
23 if you want to narrow that down.

24 Another thing we can possibly do at the time  
11:44 25 we send it in to them, we can attach this as an attachment



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1 to the jury instructions, say, 'You've heard that there was  
2 a number of things agreed to or it was referred. If you  
3 want to see everything, then it's attached as Exhibit A on  
4 the jury instructions,' which I have not done before.

11:45 5 But if take a look down here, it's so many  
6 numbers and so forth. If you want to just get a yellow  
7 highlighter and go down and knock out the --

8 MR. BONHAM: Already done. I've got it cut down to  
9 three pages.

11:45 10 THE COURT: You were a clerk for an appellate  
11 court. Right?

12 MR. BONHAM: I've got it down to three pages.

13 THE COURT: And the way we might be able to handle  
14 it, one of you just read it in.

11:45 15 MR. STROTHER: I don't have an objection to this  
16 because what was there is fine. So, once you've --

17 THE COURT: Now, keep in mind, also, whenever you  
18 want to do that, let me know. And you can read it -- one of  
19 y'all can read it in.

11:45 20 And, if necessary, if you want, if you feel  
21 it's necessary, we'll attach that as an exhibit to the final  
22 instructions so they can follow along. You just have to  
23 restructure it, just saying "Stipulated Facts" and just say  
24 "Exhibit A".

11:46 25 I've not ever done that before, but we can do

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1 it on the jury instructions when they go back and take it  
2 with them or we can just submit this separately, extra  
3 copies.

4 By the way, when they go back in, they'll each  
11:46 5 have a copy of the jury charge. So, we'll make copies later  
6 on.

7 MR. BONHAM: If I may interrupt, we can certainly  
8 do that. And I'll clean up the caption so that they've got  
9 something to take back.

10 But just in order to streamline a lot of the  
11 testimony so that certain things are not at issue and we  
12 don't have to reflow, I think this -- I've cut it down to be  
13 about -- It's less than three pages.

14 THE COURT: Okay.

11:46 15 MR. BONHAM: And I can read that in.

16 THE COURT: Why don't we do that, plan on doing it,  
17 after the morning session, when we start the afternoon.  
18 Okay?

19 MR. BONHAM: Yes, sir.

11:46 20 THE COURT: We'll just read that in and we'll pick  
21 it up.

22 All right. See you back in about ten minutes.

23 (Brief recess)

24 THE COURT: Why don't we plan on reading this in,  
12:02 25 then, at the opening of the afternoon session. Okay?

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1 Just for your own scheduling, on Monday, we're  
2 going to go a little bit longer because the Chief Judge has  
3 called a judges meeting I've got to be at at 1:30.

4 So, instead of adjourning about 1:00, we'll  
12:02 5 adjourn about 1:15 to 1:20 and then pick up about 2:30. And  
6 I have a large sentencing coming in at 2:15 on Monday. So,  
7 it was scheduled, what, earlier. We're going to move  
8 everything about 15 minutes. Okay?

9 (Jury present)

12:05 10 THE COURT: All right. Go right ahead, sir.

11 MR. ZUMMO: Can we have the screen down again, Your  
12 Honor.

13 THE COURT: Do you want the light off or do you  
14 want it on?

12:05 15 MR. ZUMMO: Whatever the Court thinks looks good.

16 THE COURT: Just tell me when you get ready for it.  
17 Are you ready for it now? Oh. Yeah. That's right. Okay.

18 MR. ZUMMO: It's much better with the light off.  
19 Yes, sir.

12:05 20 May I proceed, Your Honor?

21 THE COURT: Yes, sir.

22 By Mr. Zummo:

23 Q. Mr. Wood, before we took the break, you were starting to  
24 describe how the entrance was done for the Buckingham  
12:05 25 design.

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1 Which floor should we look at in the plans for  
2 the entrance?

3 A. Let's start with the first floor.

4 MR. ZUMMO: Can we go to the first floor from  
12:05 5 Plaintiff's Exhibit 9.

6 By Mr. Zummo:

7 Q. Can you use the laser pointer to show us where the  
8 entrance is to this unit and then tell us why you put it  
9 there.

10 A. Because of the shape of these, we can fit more of them  
11 on the property by making --

12 THE COURT: You need that microphone, sir, please.

13 THE WITNESS: Sorry.

14 THE COURT: Yes, sir.

12:06 15 A. So, it's narrow and long so that there's not enough room  
16 to have the front door all in the front of the house, which  
17 is the garage door. So, we created this gate.

18 So, you come through the gate and then the  
19 front door is right here. So, this side yard and that  
12:06 20 little backyard in the back.

21 THE COURT: So, the garage -- which is facing the  
22 street, so to speak? That's it?

23 THE WITNESS: Yes. The street is out here. The  
24 garage is on the street. And you can see the little gate  
12:06 25 that's on the elevation. And that's the entrance --

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1 THE COURT: Where is the grass area?

2 THE WITNESS: In the little backyard in the back.

3 THE COURT: Yeah.

4 THE WITNESS: And then there is also a green across  
12:06 5 the street out in the middle planned in this community.

6 THE COURT: Is this what you'd call a townhouse?  
7 Patio home? Condominium? What would you call that?

8 THE WITNESS: Well, in Houston, we call these  
9 townhouses even though they're not attached. A townhome --

12:06 10 THE COURT: Yeah. They're not attached. There's  
11 no --

12 THE WITNESS: They're 3 to 5 feet apart.

13 THE COURT: Okay.

14 THE WITNESS: In most parts of the country, I'm  
12:07 15 finding now that they don't call them a townhouse unless  
16 they're attached.

17 THE COURT: What do they call them?

18 THE WITNESS: They just call them single-family  
19 homes.

12:07 20 THE COURT: At one time they had a definition, like  
21 something like that would be a patio home.

22 THE WITNESS: Yes. There are some that we do that  
23 are a little different shape that kind of wrap around a  
24 courtyard instead of having a yard in the back. It could be  
12:07 25 the back. But, usually, it's a little more contained by the

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1 shape of the house. We call it more courtyard.

2 But this house, there's very little space down  
3 on the ground floor, as you can see. Originally, if you  
4 look at a previous version of this, this was a bedroom. But  
12:07 5 we found that most people -- It's young professionals buying  
6 back at the time we were doing this plan.

7 And the downstairs room was access to the  
8 backyard. So, it really became kind of a media room/game  
9 room, whatever. So, the bathroom was optional.

12:08 10 So, we set it up so it was an optional -- It  
11 was built as a game room. They could add the bath. They  
12 could add the closet. They could add the wall with a door  
13 in it. But....

14 THE COURT: Sometimes known as an in-laws' room  
12:08 15 now?

16 THE WITNESS: It could be an in-laws' suite,  
17 absolutely, or a teenaged kid that come back home. Yeah.

18 THE COURT: They all come home. These days they  
19 never leave. They never get off the payroll either.  
12:08 20 Grandchildren, too. I don't know. It's a different  
21 generation.

22 THE WITNESS: That's the first floor. So, we --  
23 But staircase -- I mean, the idea -- Even though it's a  
24 small space, you walk in. You see the staircase.

12:08 25 You get a little bit of open ceiling to the

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1 second floor. So, you see a little bit through to the  
2 second floor into where you're going.

3 By Mr. Zummo:

4 Q. Let's go to the second floor.

12:08 5 MR. ZUMMO: The next slide.

6 A. So, that little opening right there is what I was  
7 talking about. That's open to below. So, when you walk in  
8 the front door, there's a -- right underneath that window,  
9 you look up through the staircase and you can see a little  
12:09 10 bit of the upstairs.

11 So, when you come up the stairs, you land here  
12 at the second floor. Living and dining. This is a little  
13 older plan, and we still had kind of the main living areas  
14 and then a little separation.

12:09 15 It was still open, but there was a case  
16 opening and a little bar and a kitchen/breakfast. We very  
17 seldom do breakfast rooms anymore. They're all one dining  
18 area.

19 But one thing that we did often -- The  
12:09 20 staircase had a little curve as you go up to the third  
21 floor. So, we added a little interest with the curve, a  
22 little curved wall and a niche.

23 We tuck the powder room in. So, we hide the  
24 powder room so it's not right in the dining room. A lot of  
12:09 25 our competitors, the powder room is tucked over in the

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1 corner of the kitchen or the dining room, and the door is  
2 right there. It seemed a little awkward. So, we always try  
3 to tuck it off the landing of the stairs, a little  
4 different. Normal kitchen.

12:09 5 Let's go to the third floor.

6 By Mr. Zummo:

7 Q. I'd like to stop here, though, in terms of showing  
8 everybody how you can read these plans.

9 How do we know, when you see the stairs on a  
12:10 10 plan like this, which direction is up and which direction is  
11 down?

12 A. Well, that little arrow right there. There probably was  
13 a note at one point that said "Down". I can't see it right  
14 now.

12:10 15 Normally, we have an arrow pointing up and it  
16 says "Up" and an arrow pointing down that says "Down". I  
17 don't see it on here. This has been cleaned up.

18 Q. Another question about this plan.

19 You told us when you were describing this  
12:10 20 Hyde Park project that the view was one of your  
21 considerations.

22 What is it about this second floor plan that  
23 will show us where you were trying to take advantage of the  
24 view?

12:10 25 A. That -- I said that the front of this house faced west,



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1 back faced east, and this was this big bow/bay window. From  
2 the living room, you get a little bit -- you probably see  
3 tops of the downtown skyline. Once you get to the next  
4 floor, the master bedroom has that same shape, same windows.

12:11 5 THE COURT: And the grass area is what? At the top  
6 of the diagram?

7 THE WITNESS: Yes. It's right below this. You're  
8 looking down over your little backyard. And then there's  
9 another grass area out in the front. So, from your kitchen,  
12:11 10 breakfast.

11 And we tried to incorporate a little balcony.  
12 So you're on the second -- Your kitchen is on the second  
13 floor. You don't have to go down to the yard to grill  
14 something. You've got a little spot. You can stick a grill  
12:11 15 right there.

16 By Mr. Zummo:

17 Q. And when you showed us the first floor, it didn't have  
18 that bow at the top of the plan?

19 A. Correct.

12:11 20 Q. What's different when you get to the second story in  
21 terms of how this is built and how it looks?

22 A. We do that for several reasons. One, it makes the  
23 foundation simpler to try to build that shape, and the  
24 foundation would be more difficult.

12:11 25 It also takes space out of the little

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1 backyard. We're trying to create -- by cantilevering it  
2 out, is what that's called. We basically build the floor  
3 systems, structural.

4 So, we have to hang these out that 4 feet at  
12:11 5 the middle. It's about 4 feet out. That covers the doors  
6 downstairs so they're protected from the weather a little  
7 bit, and it gives me some extra footage.

8 I said earlier that the slab can only cover  
9 60 percent of the lots. So, we keep that slab right at  
12:12 10 60. But the cantilevers don't count in the coverage. So,  
11 we can pick up some extra useable square footage.

12 This breakfast room and this balcony are  
13 cantilevered out on the front. That bow/bay is cantilevered  
14 out in the back. So, we probably added 70, 80 square feet  
12:12 15 that we wouldn't have had on just this floor.

16 We did the same thing on the next floor.

17 Q. Let's go to the next floor.

18 So, tell us about the third floor on this  
19 Buckingham design.

12:12 20 A. So, the third floor. You're coming up the stairs. You  
21 land here, and you've got the guest bedroom. And then you  
22 turn the corner and go back down the hall to the master  
23 suite. That's that window again we're talking about with  
24 the view of downtown. King-size bed.

12:12 25 This is an irregular shape. But when we

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1 design these, we put furniture in it and we know it works.  
2 The door swings. Everything is kind of driven by how this  
3 room is going to get furnished.

4 So, the king-size bed and nightstands fit  
12:13 5 there, a couple of chairs, reading area. You can sit out in  
6 the bay. TV, dresser, whatever can fit there.

7 It's hard to see, but there's separate  
8 vanities. It's a very small bath, but there's a kind of  
9 hers vanity here and his sink and vanity over there.

10 There's a big -- I can't read it. The shower  
11 is there. The tub is there, toilet compartment there, and  
12 then a big walk-in closet behind that.

13 THE COURT: Where is the walk-in closet?

14 THE WITNESS: It's this space here.

12:13 15 THE COURT: Oh. I see it. That's a lot.

16 THE WITNESS: It's like 6 by 12 or 6 by 11,  
17 something like that. Good size for a house that's probably  
18 less than 2,000 feet.

19 By Mr. Zummo:

12:13 20 Q. Now, you said that there were two designs that were used  
21 at this Hyde Park development?

22 A. This was the one for the east -- the road that was  
23 closest to downtown. So, your third floor, you got a great  
24 view of downtown.

12:14 25 But once we built these, we realized, you

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1 know, the houses that we built across the street are not --  
2 all they're going to see is this house. They're not going  
3 to be able to see much of downtown.

4 So, we took this plan. And one thing that we  
12:14 5 were one of the first to do in the city of Houston is -- in  
6 the code book -- but nobody had really used it -- there's a  
7 section in there -- With a single-family with a wood frame  
8 residential building, you can only build three floors  
9 without sprinklers and a lot of other costs.

12:14 10 So, we want to stop at three floors. But  
11 there's a section in the code that says you can have three  
12 floors and what's called a "mezzanine", which a mezzanine is  
13 based on the idea of the old theaters that had a mezzanine  
14 up in the back of the theater.

12:14 15 So, the other version, we added a mezzanine.  
16 So, it pushed the master bedroom really to the fourth level.  
17 So, it could see over these and it also had the master  
18 bedroom view.

19 By Mr. Zummo:

12:14 20 Q. Let's look at that next version briefly.

21 Was it called the Ashford?

22 A. Called the Ashford.

23 Q. This is Plaintiff's Exhibit 20.

24 A. You see there's the garage and the first floor, that  
12:15 25 kitchen, breakfast and balcony on the second floor. That's

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1 the mezzanine level and then the master bedroom moved up an  
2 extra -- So, it raised it about 9 or 10 feet. So, he had a  
3 view over the other ones behind it.

4 Q. What I'd like to do next, Mr. Wood, is I want to show  
12:15 5 the jury the mezzanine floor that you added to modify it,  
6 but I'd like you, if you can, to use these two exhibits,  
7 these two pages, so that we can see the relationship between  
8 the floor plan and the outside of the building or the way  
9 that the outside looks.

12:15 10 A. Okay.

11 Q. So, let's go to the next slide, which is the mezzanine  
12 floor plan.

13 And can you show us where the mezzanine floor  
14 was.

12:15 15 A. So, this is the living room below. And that's the  
16 dining room below. And that's that same stair that was, in  
17 the previous plan, coming out of the living room, going up  
18 to the bedroom, but now it goes up to the mezzanine.

19 And then we double back and go up again to  
12:15 20 what is the same third floor, essentially, slightly  
21 different because the staircase landing was slightly  
22 different.

23 But we get all this grand volume in the living  
24 and dining. So, those spaces feel much bigger. This room,  
12:16 25 it can be just an open mezzanine, study, game room, whatever

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1 you want to use it for. This version has a utility room  
2 tucked in here and a little mechanical room for the AC  
3 system.

4 So, I guess now let's go back to the  
12:16 5 elevation.

6 Q. Okay. I'd just like to -- It's another example of how  
7 we can understand how these plans work.

8 So, can you show us on the floor plan the  
9 things that turn into windows or doors or garages on the  
12:16 10 exterior.

11 A. Do we have in here -- I think we do -- the back  
12 elevation of the -- Not of the Ashford. We don't have the  
13 Buckingham here?

14 Q. I think we can do that with --

12:16 15 A. We can talk to this. That's fine.

16 Changing this -- the arrangement of these  
17 windows, we're trying to keep this centered because this was  
18 still trying to be a traditional style, somewhat  
19 French-style home. A little bow on the roof.

12:17 20 The windows are all centered. We put them  
21 together. We could pull them apart for a reason because  
22 there might be -- I mean, on some of the bigger townhomes,  
23 there might be a wall between those two windows.

24 The windows get pushed apart and look  
12:17 25 completely different. We would arrange the -- what else

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1 happened with that wall. Because of what starts happening  
2 on the inside, we change the way the elevation looks  
3 completely.

4 Like I said, the back, the other side of this  
12:17 5 that's that bow, becomes a real memory point when people see  
6 that home. It curves out. There's five windows wrapping  
7 around that curve. It's all glass. It's a real -- It's a  
8 piece of the elevation.

9 THE COURT: Do we have any elevation --

12:17 10 MR. ZUMMO: When we get to the next example, Judge,  
11 we'll be able to --

12 THE COURT: Okay.

13 MR. ZUMMO: -- show front and back.

14 THE COURT: I see the other side.

12:17 15 MR. ZUMMO: Yes.

16 By Mr. Zummo:

17 Q. Now, you said that the Buckingham and Ashford were built  
18 at this Hyde Park location in Montrose.

19 About when was that?

12:18 20 A. '98, I believe.

21 Q. And tell us then how Buckingham/Ashford was modified to  
22 create the D5-214.

23 MR. ZUMMO: So, let's go on to Exhibit 26.

24 A. D5-214 was seven years later, 2005, and things were  
12:18 25 starting to change in the market. So, we opened it up a

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1 little bit more. It's a completely different style. The  
2 other one was very French. This, it's a little creative.  
3 It's got the influences of lots of different things. It's  
4 still very traditional in style.

12:18 5 So, the front or the side where the garage is.  
6 You still have a little balcony off the kitchen and  
7 breakfast and the kitchen, the windows in the guest bedroom  
8 up above.

9 But we added the floor element with the little  
12:19 10 transoms above just to add some interest, trying to get  
11 little pieces of kind of a traditional Greek architecture.  
12 So....

13 By Mr. Zummo:

14 Q. Before we leave this title page, do you have a logo  
12:19 15 anywhere on this page to tell people that this is your plan?

16 A. Yes. We have it several places. We designed this kind  
17 of column. Everybody has their border that they put on the  
18 side. Usually, it's on this side of the page that most  
19 architects and designers put their name and the name of the  
12:19 20 project, the address of the project, certain pertinent  
21 information to look it back up.

22 We did that on this side. We also put the  
23 copyright information. That's that copyright 2005. I think  
24 this is the basic -- what that copyright means. That's on  
12:19 25 every page.



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1 MR. ZUMMO: Let's go to the next slide. We tried  
2 to blow that up.

3 THE COURT: Now, where is that? Where is that  
4 located? Is that along that side?

12:19 5 MR. ZUMMO: Let's go back to the --

6 THE WITNESS: That shows where that --

7 THE COURT: Well, we're going to read in that area.

8 MR. ZUMMO: Yes, Your Honor. Correct.

9 A. So, we just took that and blew it up. That's that same  
12:20 10 thing turned now, you read. And then this is blown up  
11 again, and that's what it said.

12 By Mr. Zummo:

13 Q. Does this border appear just on the cover of your set of  
14 plans?

12:20 15 A. Yes, sir. It's on every page, however many pages this  
16 drawing had.

17 Q. And we're going to look at a number of your plans.

18 Is that the case for all the plans that you  
19 publish or that you draw at Preston Wood & Associates?

12:20 20 A. Yes, it is. It changed slightly over the years, but the  
21 idea was that it was always on that side of the page, and it  
22 said basically the same thing.

23 Q. So, I think, if we go to the next slide, it's the first  
24 floor plan for Plaintiff Exhibit 26.

12:20 25 So, can you show us -- or explain to us what

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1 you did to take the previous Buckingham and Ashford and  
2 design the D5-214, first floor.

3 A. The first floor is virtually identical. Same stair --  
4 This version of it is reversed or flipped from the other  
12:21 5 one, but the other one the entry is here.

6 But it's the same entry, same staircase. We  
7 had the open bedroom. This one showed the bath included --  
8 It still could be a library. We can leave that out. Same  
9 idea.

12:21 10 Same doors out to the backyard. The dotted  
11 line you can just barely see there, that's the cantilevered  
12 bay up above.

13 So, it's all basically the same.

14 Q. Did you make any changes when you modified the  
12:21 15 Buckingham and Ashford to turn it into the D5-214 on the  
16 second floor?

17 A. There was -- We opened up the kitchen a little more.  
18 There were columns and a defined little -- Now, it's open  
19 from side to side. There is the peninsula in there, but  
12:22 20 there's no walls anymore. So, that opened up a little more.

21 The staircase is the same. Powder room is the  
22 same. Same little curve. I think this lot was a little bit  
23 shorter. So, that cantilever in the back got squashed a  
24 little bit.

12:22 25 And instead of cantilevering this out in the

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1 front, we had room to add a little carport in front of the  
2 garage. So, this is actually supported. We had a little  
3 bit bigger distance from the driveway to the building. So,  
4 we could add space.

12:22 5 But inside the same ingredients. Pantry same  
6 spot. Powder the same spot. Balcony same spot. Kitchen --

7 THE COURT: Slow down, please.

8 THE WITNESS: I'm sorry.

9 All the pieces are in the same place. Put it  
12:22 10 that way.

11 By Mr. Zummo:

12 Q. Now, why did you -- For the client that you designed the  
13 D5-214, why did you use the Buckingham and Ashford as a  
14 starting point?

12:22 15 A. To save time. If we had to develop this from scratch --  
16 This connection is very complicated. If we had developed  
17 that from scratch, it would have cost us more time and the  
18 client more money.

19 Q. What was the site like that the client wanted to use the  
12:23 20 D5-214 to build townhouses on?

21 A. 214 had that same -- This faced east. Little different  
22 view, but it still was looking right at downtown. So,  
23 that's east. The balcony is to the west.

24 Q. When you explained the Buckingham -- or the Hyde Park  
12:23 25 plan, you said that there were some green spaces on the

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1 garage side of those units.

2 Did you have any spaces like that designed  
3 into this site?

4 A. Yes, we did. Absolutely.

12:23 5 Q. So, did you find that the view and the site made it  
6 practical to try to modify the Buckingham and Ashford to fit  
7 this new site?

8 A. That's why we used this plan. What was different was  
9 the elevation.

12:24 10 Q. Let's look at the elevation. I think the next slide is  
11 the rear elevation.

12 THE COURT: This is the rear. So, you're looking  
13 right across that little green yard. Is that correct?

14 THE WITNESS: Correct. Those are the doors that  
12:24 15 come out of the library/bedroom downstairs out of the little  
16 backyard. Can't really tell here, but from that point to  
17 that point is that bow window --

18 THE COURT: Where? From where to where?

19 THE WITNESS: From that line to the -- This line is  
12:24 20 the outside edge of the house. About 2 feet in is the edge  
21 of where it punches out.

22 THE COURT: How far does it punch out? Feet.

23 THE WITNESS: It punches out about 18 inches, and  
24 then the curve bows out another 18 inches, roughly, for a  
12:24 25 total of about 3 feet added back there.

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1 And it's the same thing up here. And then  
2 this carried all the way up to the gable roof.

3 By Mr. Zummo:

4 Q. So, I think the second floor is the previous slide. The  
12:25 5 next one would be the third floor.

6 Which one would you use to show us the  
7 relations of the windows of the floor plan so we can see  
8 where they are?

9 A. Let's go to the third. We haven't looked at it yet.  
12:25 10 So, let's look at that.

11 And that's what we were just looking at, was  
12 that curve. That little 2-foot straight section from there  
13 to there and from there to there is what we're looking --  
14 The outside corner was here. The corner of the bay is here  
12:25 15 where it boxes out.

16 So, those windows -- Those three rectangles we  
17 were looking at are those -- one, two, three -- windows.  
18 And then we looked at the front. There were two windows on  
19 the third floor. That's those two windows.

12:25 20 This easily could have been -- if we're going  
21 for a -- Nowadays, we go for a more modern style. We push  
22 the windows to the corner, maybe even let the window go  
23 around the corner, and it would give the elevation a totally  
24 different look even though it might be the same floor plan.

12:25 25 Q. Did this Allegro Builders project actually get built?

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1 A. It did not. Like I said, it was in 2008. So....

2 Q. In 2008 we had a serious recession.

3 When you have a plan that you do for a builder  
4 and it doesn't get built, will you still add that to your  
12:26 5 stock plan library?

6 A. Yes.

7 Q. Now, if the plan had been built, would there have been  
8 other steps in the design process that you would have done  
9 for that builder?

12:26 10 A. Yeah. We would have seen it or -- We would either have  
11 walked the project under construction or had talked to the  
12 contractor that was building it.

13 And if there were any issues or complaints or  
14 problems that he ran into, we'd go back and update, find  
12:26 15 ways to solve those problems, hopefully, during the frame  
16 stage when it's relatively easy, and then we'd go back and  
17 update this drawing before it sold again.

18 Q. Are you aware of any problem or issues with the D5-214  
19 that hadn't been caught at the stage where the project was  
12:27 20 halted and didn't get built?

21 A. Yeah. We have a standard detail. Staircases, like I  
22 said, are very complex, and we're trying to use every inch  
23 of square feet of square footage inside the home.

24 So, we often build over the top of the  
12:27 25 staircase or underneath the staircase to try to make use of

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1 every inch of space.

2 And there were some changes made from the  
3 Buckingham to the -214 that that AC chase that's right there  
4 over the staircase and the utility room behind it moves over  
12:27 5 the staircase about 8 inches farther than we should have.  
6 So, the head clearance coming up the staircase we now know  
7 is less than it should be.

8 It's an easy fix. If the builder had told us  
9 or we'd gone and walked the job site and seen it, what we'd  
12:27 10 traditionally do is the beam that spans from this wall to  
11 that wall -- it's a 3 1/2 -- It's an easy beam.

12 It's two 2-by-12s. It could be two 2-by-8s.  
13 It's not a big deal. You could move it back 8 inches and  
14 slope the ceiling the rest of the way. That's a return air  
12:28 15 chase. There's nothing in it. So, the bottom of that  
16 return air chase slopes.

17 Q. You used that term "chase". What does that mean?

18 A. It's a chase that we use the mechanical equipment. The  
19 furnace is generally -- In this plan -- The Ashford had it  
12:28 20 in the mechanical room, but this one is in the attic.

21 And, so, we're trying to get the return air  
22 ducts and the supply air ducts down through the home.  
23 They're usually little chases. There's one there. They're  
24 scattered around the plan to bring that AC from the attic  
12:28 25 down to the second and first floor.

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1 Q. Now, have you compared your D5-214 plan to what was  
2 called the Nagle plan that was supposedly drawn by  
3 Mr. Cameron?

4 A. Yes, I have.

12:29 5 Q. Did you find any similarities between the Nagle plan and  
6 your D5-214?

7 A. Yes.

8 Q. Can you tell us what those similarities were.

9 A. I mean, the biggest similarity -- There are lots. The  
12:29 10 elevations are virtual copies, even though the plan changed,  
11 basically flipped again.

12 The staircase is essentially the same until  
13 you get halfway to the third floor and then it changes  
14 substantially. First to second, the same. Second floor is  
12:29 15 the same. Third floor, master bath is the same.

16 Because of the view we were talking about,  
17 their -- the Nagle site, there were three rows of houses in  
18 it. One row, this exact plan would work perfectly on. The  
19 other two rows that they decided to build first didn't work  
12:30 20 because they were 7 feet apart. The back wall was 7 feet  
21 from the next house just like it.

22 So, they decided -- same thing we would have  
23 suggested -- flip that plan. So, the master is on the front  
24 and the family room is on the front and the kitchen and the  
12:30 25 guest room are in the back.



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1                   It's a pretty normal change. We often, in a  
2 community, have both cases. They would have eventually had  
3 the same thing here.

4                   Q. Let's go to the next slide, which is the front elevation  
12:30 5 of Plaintiff's Exhibit 104.

6                   Is this an elevation for the Nagle Street  
7 plan?

8                   A. Yes. This was the street elevation, the front  
9 elevation.

12:30 10                  Q. Then the next -- Let's look at the next slide.

11                   Did you compare the logos and copyright  
12 notices on your plan with what Mr. Cameron said was his  
13 plan?

14                  A. Correct. Yes, we did.

12:31 15                  Q. What did you find?

16                  A. Lots of similarities. The same border on our plan we  
17 saw earlier. It's hard to see here.

18                   But the copyright was there, the text  
19 information, the little block copyright. The same text is  
12:31 20 here. The block copyright has been removed. You can see it  
21 there.

22                   He took the rest of this information and, if  
23 you look at it closely, you can see the bands and the  
24 details of our column that's part of our border. That's all  
12:31 25 still there.

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1 He took the capital off of the column,  
2 inserted his logo and his seal but then, in this bottom  
3 left-hand corner, put back our logo, which he should have  
4 done, but shouldn't have our seal.

12:31 5 Q. Why is that? Why shouldn't your seal be on the plans  
6 that Mr. Cameron is claiming to draw?

7 A. Well, not without our permission. I mean, he could ask  
8 for permission. If he's not going to put a seal on it, he  
9 needs to get a permit and it needs a seal on it.

12:32 10 Sorry. Slow down.

11 There's a way to do that, but there has to be  
12 permission granted, and it's -- I don't want the liability  
13 of somebody making changes in plans and then being liable  
14 for their mistakes.

12:32 15 So, they have to ask to put that on.

16 Q. So, let's compare the front elevations of the two plans.

17 This is the front elevation from Plaintiff's  
18 Exhibit 26 compared to the front elevation from Plaintiff's  
19 Exhibit 104.

12:32 20 Can you show the jury if there are any  
21 similarities between these two elevations.

22 A. Like I said, other than the fact they've been reversed,  
23 mirror image. So, these windows are on the right side of  
24 this version. They're on the left side here.

12:33 25 The same balcony. The same rail. The same

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1 arch over the garage door. These are all elements that, if  
2 we did this again, we would change because we don't [rapid  
3 mumbly speech].

4 If somebody wanted to build the same thing and  
12:33 5 the previous one had already been sold and they wouldn't be  
6 competing head to head, then we might sell it again.

7 But if this one was out under construction and  
8 somebody else wanted to build it again, we would change the  
9 elevation. We would change that arch. It might be square.  
12:33 10 Or we might change this band. We'd change the windows.

11 It could be the same plan behind, but it  
12 wouldn't look like the same house. It would look different.

13 These are identical. Same little roof. Same  
14 little details up in the gable. The trims are -- Everything  
12:33 15 about it is the same. No changes.

16 Q. Now, when you designed the D5-214, the process you just  
17 described, did you have options for these different elements  
18 that you put on the elevation of the D5-214?

19 A. Yeah. Endless combinations.

12:34 20 Q. What was the significance to you of finding the same  
21 details in what Mr. Cameron claimed was his plan?

22 A. He had our file; so, he had our CAD drawings.

23 So, he changed the border and then went into  
24 the floor plans and made changes in the floor plan, but the  
12:34 25 elevations remained the same.

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1 Q. Now, I want to get one definition. We have been talking  
2 about the word "elevation".

3 For a home designer, what does that word mean?

4 A. It's like a two-dimensional picture of the four sides of  
12:34 5 the home. There's four elevations of this home, but,  
6 depending on the shape, there could be more. But,  
7 generally, there's four elevations. You usually label it  
8 front, rear and left and right.

9 This was the front.

12:34 10 Q. So, let's look at the next slide, which is a  
11 side-by-side comparison of the first floor plan of  
12 Plaintiff's Exhibit 26 and the first floor plan of  
13 Plaintiff's Exhibit 104.

14 Did you find any similarities when you  
12:35 15 compared the first floor plans of your D5-214 with what  
16 Mr. Cameron claimed was his Nagle Street design?

17 A. Yeah. Like I said, it's virtually identical. The  
18 staircase is the same down to the detail. There's a little  
19 curve. The last two treads curve out.

12:35 20 The same thing is here. Even though it curves  
21 into a dead corner, they decided to add the wall back and  
22 make it a full bedroom. So, that curve is not something  
23 that was specific to our design, and it just got copied over  
24 here.

12:35 25 This little angle at the entry was not

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1 something we do all the time. We have it on both sides.

2 Because he made that a bedroom, he squared off one side, but  
3 he left the angle on the other side. It's obviously just a  
4 direct copy.

12:36 5 Q. Now, the stairway that's done in this design, how does  
6 it work in relation to all three floors of the design?

7 A. I mean, the one thing I said earlier, the stair on the  
8 second and third floor is basically in a straight line,  
9 running along this side of the house.

12:36 10 Because we wanted to enter from the side, we  
11 took the end of the -- the last five or six steps and turned  
12 them to the side.

13 So, that does two things for us. It allows us  
14 to have the door here instead of -- This was a traditional  
12:36 15 alley-load product -- "alley load" meaning the garage would  
16 load off an alley instead of a street -- and this would face  
17 the street.

18 On that type of home, this might be the same,  
19 but we would take that bathroom, put it over here. The  
12:36 20 stair would go straight and the entry would go right there.  
21 Everything else stays the same.

22 And we figured out over the years of doing  
23 lots of these, if we did little tricks like that, we didn't  
24 have to draw as many custom plans. We could just modify  
12:37 25 plans to fit different lot conditions. Builders loved it

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1 because they could be a lot more efficient.

2 Q. So, even though one of the fairways you have shown us  
3 here that has a 90-degree turn and you just described  
4 another version that would be straight, are you saying that,  
12:37 5 otherwise, the plan stays the same?

6 A. Correct. Everything else stayed the same.

7 Q. And what's your reason for choosing one staircase  
8 versus -- the straight one versus the 90-degree?

9 A. It's the site location. Whether it produces this plan,  
12:37 10 the only access was from the front -- from the street in the  
11 front. So, we had to walk down the side.

12 And we could leave the other plan and make you  
13 walk all the way through your yard and come in over here,  
14 but it made sense to come in here. And then that yard  
12:37 15 became a private backyard; it wasn't the entry to your  
16 house.

17 Q. Let's look at the next slide, which is the second floor  
18 plan from Plaintiff's Exhibit 26, compared to the second  
19 floor plan of Plaintiff's Exhibit 104.

12:38 20 Did you find any similarities when you  
21 compared the second floor plans that we have up?

22 A. This was harder because of the lot conditions we talked  
23 about earlier. In our version, we had a great view out the  
24 back, out the living room and the master.

12:38 25 They had this house and 7 feet away they had

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1 the same house flipped over. So, they had two homes back to  
2 back. It's not unusual.

3 So, they want the view out front. They have  
4 the street out in front. So, they wanted to be out front.

12:38 5 But they did it in the most efficient way they possibly  
6 could.

7 Basically, the staircase and the powder room  
8 didn't change at all. They're in the same location. Every  
9 little curve -- I think they may have added one more tread  
12:38 10 at the bottom. Other than that, that radius is the same.  
11 It's all in the same spot.

12 They picked up the kitchen and breakfast room,  
13 moved it to the back, and grabbed the living room off the  
14 back and moved it to the front.

12:39 15 That was the pantry. Now you have a closet in  
16 a living room that nobody really knew what to do with; so,  
17 they just left it there. This is fine. We do this all the  
18 time. But we would normally make some other changes to make  
19 this really feel like a living room. We could have gotten a  
12:39 20 better room.

21 There's better ways to do this. This was  
22 just, obviously, very quickly done.

23 Q. Now, we talked about similarities that you found in the  
24 logos and copyright borders. We talked about similarities  
12:39 25 in where the rooms are placed and some similarities in the

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1 details.

2                   Using this comparison, do you see any  
3 similarities in the way the plan is printed or the way that  
4 the words are used on it?

12:39 5 A. The font is the same. I mean, we -- most designers kind  
6 of have their own font, what they use for the letters types.

7                   I had a guy that worked for me, Ron Pettit,  
8 that was -- He was constantly looking for a new one. He was  
9 constantly trying to find a better font that was easier to  
12:40 10 read and small scale or for whatever reason.

11                   Anyway, this was our font. It's the same  
12 font.

13 Q. Did you find any similarities in other information  
14 that's printed on the two plans?

12:40 15 A. There are -- In some of these cases -- For instance --  
16 Well, down here is the same.

17                   But some of these, it's hard to see here, but  
18 some of the rooms -- even though the shape of the living  
19 room changed -- I think ours says 19'2" by 13'8" or  
12:40 20 something -- something like -- It's basically 19 from there  
21 to there and 13 from there to there.

22                   Their shape is different, but I think it still  
23 says 19'2" or 19'3", but it says virtually the same numbers.  
24 They just picked it up and moved it to the front. They  
12:41 25 didn't change anything, even though it should have been



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1 changed. It's like a typo.

2 Q. Did you also compare the -- Well, let's do this.

3 If we rotated the Nagle side of this diagram,  
4 would that let the jury and the Court see the room

12:41 5 alignments --

6 A. It might.

7 Q. Okay.

8 A. Obviously, this looks totally different.

9 Q. Let's go to the next slide just to see --

12:41 10 A. It's a little confusing because the stair flips. But  
11 our point is that the only thing that really flipped is the  
12 rooms. The dining room stayed in the middle.

13 THE COURT: The only thing that flips is what, sir?

14 THE WITNESS: Is the rooms.

12:41 15 THE COURT: Okay.

16 THE WITNESS: Our living room was in the back. Our  
17 dining room is in the middle. Our kitchen/breakfast was in  
18 the front. They, because of the view, reversed that.

19 The middle -- the kitchen and the stair and  
12:41 20 the powder room -- stayed the same.

21 Flip them back, please.

22 And then they moved -- they basically just --  
23 they grabbed the kitchen and breakfast that was here, put it  
24 back there, and grabbed the living room that was there and  
12:42 25 put it here.

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1 And then, in AutoCAD, which is the way this is  
2 has drawn, that's exactly what you do. In the olden days,  
3 when we drew them in ink on vellum, you had to redraw it.  
4 In CAD, you can actually grab the lines and move them over  
12:42 5 here.

6 So, when he grabbed the lines, the text came  
7 with it. So, that's why it didn't change.

8 Q. There's a -- When you're talking about grabbing and  
9 moving, like if we were in Microsoft Word, is that like copy  
12:42 10 and paste?

11 A. Kind of. Yeah.

12 Q. Can we look at whether the -- a comparison of the third  
13 floor plans of these two designs.

14 What we have up is a comparison of the third  
12:42 15 floor plan from Plaintiff's Exhibit 26 and the third floor  
16 plan from Plaintiff's Exhibit 104.

17 Did you find any similarities in these floor  
18 plans?

19 A. Similarities, but they were becoming fewer because this  
12:43 20 is where they ran into trouble. And they did the same  
21 thing. They wanted to do the same thing here.

22 The master bedroom that we had in the back  
23 with the view, they wanted to move it to the front. Makes  
24 perfect sense. The master bedroom is a lot bigger than the  
12:43 25 guest room that used to be up there.

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1           The staircase would have run into the master  
2   bedroom. So, they had to totally reconfigure the stair.  
3   This is not exactly how we would have done it. If they had  
4   asked, we could have showed them another way to do it.

12:43 5           What they did -- They had two stairs. They  
6   came up the stair from the second floor living room. Up to  
7   that point is the same.

8           And then they created the landing and they  
9   had -- they split there, and half the stair went that way to  
12:43 10   go to the utility room and the guest bedroom and the other  
11   half went just to the master.

12           So, if you can imagine, if you're on the  
13   second floor in the dining room, this stair is hanging out  
14   over the dining room.

12:43 15           So, you'd probably have -- I think it was  
16   6'2" or 6'6" or -- very low ceiling underneath that landing  
17   down in the dining room. So, not an ideal situation. Quick  
18   fix, you could say.

19           But there's a lot of similarities still. The  
12:44 20   same door location, the same split lavs, hers and his, the  
21   tub, shower, the closet off the end of it.

22           It changed because it was redrawn. But it's  
23   obviously -- if you compared that part of the stair to ours,  
24   it's the same.

12:44 25   Q. Did you also compare your D5-214 drawings to some

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1 marketing materials that Urban Living produced for this  
2 Nagle project?

3 A. Yes, we did.

4 Q. And can we go to the next slide and compare the first  
12:44 5 floor of Plaintiff's Exhibit 26 to the first floor of  
6 Plaintiff's Exhibit 106, which is advertising material.

7 Did you find any similarities?

8 A. Same things as we discussed before.

9 Interesting thing. They took the little curve  
12:45 10 off that was on the architectural plans with the marketing  
11 plan. The little curve went away. I just noticed that.

12 But, anyway, the same room, same doors going  
13 out to the backyard, same bath, same closet, same entry  
14 door, same stair, the critical part. So, same little angle  
12:45 15 there.

16 Q. And do you produce marketing versions of your designs?

17 A. We do.

18 Q. What do you do when you create a marketing version of  
19 your blueprint-type design?

12:45 20 THE COURT: What do you mean by "marketing  
21 version"?

22 By Mr. Zummo:

23 Q. Tell us what that means.

24 A. What we use them for is -- It's a quick reference. It  
12:45 25 has the floor plans, like, two or three or four floors,

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1 however many, all on one page, and the front and sometimes  
2 the front and the back elevation at the back is important.  
3 And it's all on one eight-and-a-half-by-eleven sheet.

4 It gives the pertinent information about that  
12:45 5 plan, what the square footage is, what the dimensions of the  
6 footprint are. Sometimes it gives ceiling heights, but  
7 it's -- That information is on one sheet and then we put  
8 them in binders.

9 Now we have a search engine. We'll go search  
12:46 10 them on-line. But when we first started doing it, we had  
11 them in books. And when somebody -- And they were broken  
12 out by square footage.

13 And when people came in and said, 'I need a  
14 plan that's 18,000 feet that's three floors,' we'd go grab  
12:46 15 the three-story, 1800-foot plans and thumb through one until  
16 we found what we liked and they liked, and we would take  
17 that and modify it or, ideally, sell the stock.

18 Q. And is that type of one-page, reference-type version of  
19 a plan something that's used in the homebuilding business?

12:46 20 A. So, builders will also use it, and the realtors will  
21 also use it in certain ways. But it's good marketing  
22 material. It's cleaned up just like the one to the right  
23 that Vinod's office created.

24 It's -- It doesn't have all the dimensions and  
12:46 25 the lights and the notes, the code issues. It just has the

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1 floor plan, the doors and the basic information so people  
2 can see it and they know they either like it or not.

3 Q. Let's go to the next slide.

4 Did you also compare your D5-214 second floor  
12:47 5 plan to the second floor of the Nagle marketing material?

6 A. Yes. And, again, the stair, powder room, is the same.  
7 It's hard to see some of this stuff. All of that is  
8 virtually the same.

9 It's different in the fact that they flipped  
12:47 10 the living room to the front, and there seems to be some  
11 other changes that were made --

12 THE COURT: I can't hear you, sir.

13 THE WITNESS: I'm sorry.

14 What I said earlier was the pantry from our  
12:47 15 old kitchen that used to be right behind the powder room, it  
16 was like this, that they had turned into a coat closet or a  
17 closet in the middle of the living room. Now it looks like  
18 it's gone away and it's just become a bigger balcony.  
19 Probably a better function.

12:48 20 By Mr. Zummo:

21 Q. And then did you compare the third floor plans of your  
22 D5-214 and then the Nagle marketing material?

23 A. Yes, I did.

24 Q. And can you show us what similarities you found.

12:48 25 A. Yeah. This is the same issue where it's supposed to get

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1 lost because of the flip and, once they flipped it, the  
2 stair changed, but you can see how the stair comes to a  
3 landing and then it becomes -- One stair goes this way. One  
4 stair goes that way.

12:48 5 The bath is virtually the same. Again, the  
6 two sinks. So, there are similarities, but there are  
7 differences.

8 Q. Let's talk now about another one of the plans that's at  
9 issue in this lawsuit, which is the E0175.

12:48 10 Are you familiar with that plan?

11 A. Yes, I am.

12 Q. And make sure you're close to the microphone.

13 A. Yes, I am.

14 Q. Did you design the E0175 plan?

12:48 15 A. Yes, I did.

16 Q. Did you design that one from clean paper or did you  
17 start -- did you use another plan as a starting point and  
18 modify it?

19 A. Yes, it came from a previous design.

12:49 20 Q. And do you remember what the previous design or designs  
21 were for the E0175?

22 A. There was -- The first one it came from was, I believe,  
23 D8057.

24 THE COURT: Again, you have to slow down, sir.

12:49 25 Pull the microphone in a little.

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1 THE WITNESS: A little closer.

2 THE COURT: Say again.

3 By Mr. Zummo:

4 Q. Say it again, please.

12:49 5 A. D8-075.

6 Q. And let's look at --

7 A. D8057. Sorry.

8 Q. And was the D8057 a design that you had done for an  
9 earlier client?

12:49 10 A. Yes, it was.

11 Q. Was it one that got actually built?

12 A. It did not get built. And you're right. That -- We --  
13 Again, it --

14 THE COURT: Do we have that up there? Because we  
12:49 15 still have the old slide.

16 MR. ZUMMO: Let's get past the --

17 By Mr. Zummo:

18 Q. Is this part of the D8057 design?

19 A. That was the street elevation, the front elevation, of  
12:50 20 the D8057.

21 THE COURT: Now, are those adjoined townhomes?

22 THE WITNESS: These are "townhomes" in every part  
23 of the world. Yes. These are attached. This is a building  
24 of four or a fourplex.

12:50 25 Q. And in this design what was the site like that the



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1 client wanted to put these townhouse on?

2 A. This is several lots that went through from one street  
3 to another street. I think this street was Feagan, and the  
4 street on the other side I don't remember. But there  
12:50 5 were -- one, two, three -- four rows.

6 This was one of two buildings on Feagan.

7 There was a driveway between them. There was two more rows  
8 on two little suballeys off of each side of that.

9 There was a big common green in the middle.

12:50 10 Then there was another six or seven homes on the street to  
11 the south.

12 Q. Was there anything you did in designing the 8057 to try  
13 to take advantage of features on that site?

14 A. Yeah. We talked about before on the other one that it's  
12:51 15 a similar footprint. It's, again, very close to that 20 by  
16 40 -- Maybe it's 20 by 42 or -3. But it's close to the same  
17 footprint.

18 But, as we go through, you'll see it's very  
19 different there in certain ways because this didn't have a  
12:51 20 view. It could have it, but it was -- there was a big  
21 building between this and downtown. So, we really couldn't  
22 see the skyline.

23 So, we turned them the other way and said,  
24 okay, if we don't have a skyline view, we'll turn them  
12:51 25 north-south. We'll get a distant Medical Center view and

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1 we'll get more light in the house because the main windows  
2 will face south where they'll get light all day long. So,  
3 we rotated the orientation the other way.

4 So, you'll see the views are still important,  
12:51 5 but they're not as much the focus. It's just about trying  
6 to get as much light in both.

7 And another thing that's different about this  
8 one is because they're attached. We only have two sides to  
9 get windows in. So, we're getting as many windows as we  
12:52 10 can, both ends.

11 Q. And, obviously, we can see windows on this elevation  
12 view.

13 Let's go to the first floor plan floor for the  
14 8057 design. And can you tell us why you designed the first  
12:52 15 floor the way that you did.

16 A. This is the other -- the previous plan that we were --  
17 D5-214 with a straight stair. Because these -- the front  
18 now faces the public street, Feagan. The garage comes in  
19 from the back off the alley.

12:52 20 So, we come straight out the front. They get  
21 a little gate to the side. This still becomes -- They can  
22 have a little dog run or a little private area, patio.  
23 Their guests can come and go without walking through their  
24 yard.

12:52 25 But it's all on the front. It's a more

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1 traditional townhome design with the door and the entry on  
2 one side and the garage on the opposite side.

3 But it -- same thing. Garage, little carport,  
4 entry, staircase, bedroom, bath and closet.

12:53 5 Q. And do you have windows shown on this floor plan?

6 A. We've got two windows and the doors. So, if you look  
7 back at the elevation, there's kind of three elements on  
8 each floor that all line up.

9 Q. And is the footprint of the D8057 -- What was this  
12:53 10 footprint? What are the dimensions?

11 A. I can't remember exactly. But it's 20 by 43, maybe.

12 Q. So, almost the same slab as you had on the last one we  
13 looked at?

14 A. Correct.

12:53 15 Q. Could we look at the second floor plan.

16 And can you tell the jury why you designed the  
17 second floor the way that you did.

18 A. This is market-driven. This is seven or eight years  
19 later.

12:53 20 THE COURT: What year, about?

21 THE WITNESS: This is -- Well, this version --  
22 Excuse me. This was still in 2008. The next one we'll get  
23 to is -- But this one, we were doing the same thing. The  
24 market started to change.

12:54 25 That closed-off kitchen/breakfast is starting

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1 to go away. The breakfast is no longer a room. It's the  
2 bar at the island. So, we have a bigger living room now  
3 because we're able to squeeze that kitchen down because it's  
4 just a kitchen. There's no breakfast anymore.

12:54 5 We have a little desk over in the corner.  
6 We've got a breakfast bar, but we've got a bigger living  
7 room. Even -- It's the same footprint. We've got more  
8 living space.

9 And nobody had -- These buyers typically don't  
12:54 10 have two tables. So, they didn't know what to do with that  
11 breakfast room anyway.

12 So, this is where the market is today.

13 Q. And let's look at the third floor plan.

14 Can you tell the jury and the Court why you  
12:54 15 designed the third floor of the 8057 the way that you did.

16 A. 8057 we did a little update. The staircase is coming up  
17 from below, as normal. The guest bedroom to the back, where  
18 there was less view --

19 THE COURT: The back door, would that be over the  
12:55 20 garage?

21 THE WITNESS: You were over the garage. So, we  
22 just have an alley and then 25 feet away we have another  
23 home probably looking back at you. The front is on Feagan  
24 Street. So, it's got a distant view out to the north.

12:55 25 But what we did on this plan -- It has more

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1 steps because we didn't do the mezzanine that we talked  
2 about before, but we raised the whole master bedroom and  
3 bath I think 2 or 3 feet. So, it's about four steps.

4 So, the living and the dining downstairs had a  
12:55 5 12-foot ceiling, and the kitchen had a 10-foot ceiling. The  
6 guest room is on top of the kitchen. So, it's all at the  
7 same level. But then you go up three or four steps. The  
8 master bedroom is raised up.

9 So, just trying to add value. We use volume  
12:55 10 to add value, to add space, to add drama, to our homes all  
11 the time. So, that was a unique little feature.

12 Very dramatic bathroom. We had a two-way  
13 fireplace between the master bedroom and bath.

14 It just didn't all make it to the -- This  
12:56 15 developer was aiming for a higher price; so, we added a lot  
16 more features.

17 Q. And this did or did not actually get built?

18 A. It did not get built. Again, it was designed in 2008.  
19 He tried -- We tried. But by the time he was moving forward  
12:56 20 with financing, the lenders were not lending. So, it sat  
21 for a little while.

22 And then we can move -- to the next one is  
23 kind of where it went.

24 Q. So, did someone else take over the project?

12:56 25 A. A different builder bought the land from this builder.

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1 So, it took a different direction at that point.

2 Q. Let's look at that next direction.

3 Is your E0042, which is Plaintiff's  
4 Exhibit 40, the design you did for the new buyer of that --  
12:56 5 the first development?

6 A. Yes.

7 THE COURT: So, the new buyer also retained your  
8 company, then?

9 THE WITNESS: Yes.

12:57 10 THE COURT: All right.

11 By Mr. Zummo:

12 Q. And can you tell us what the new buyer wanted and what  
13 you did to satisfy that.

14 A. The market is changing by the year 2000 and probably  
12:57 15 even before that. We were doing lots of what everybody  
16 called Mediterranean-style architecture, whether it was  
17 Spanish or Italian or French, Southern French or Northern  
18 Mediterranean.

19 It was stucco, little stone accents, little  
12:57 20 wrought iron accents, little trowel details. That was the  
21 direction of the -- what everybody wanted their house to  
22 look like in 2000.

23 So, we took that same -- This is the same four  
24 homes -- one, two, three -- four doors, the same building  
12:57 25 and just changed the exterior and, also, changed the

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1 interior. But it was the same footprint. They were the  
2 same slabs, basically.

3 Q. And did the floor plans inside the units change --

4 A. They had to change because the outside changed so that  
12:58 5 these doors and balconies were different than what we had  
6 before.

7 So, the rooms changed. Some of these recess  
8 in. Some punch out. So, all of that changed the floor  
9 plan. The walls had to change. The structure had to change  
12:58 10 to allow that.

11 Q. So, let's look at the first floor plan of the E0042,  
12 Plaintiff's Exhibit 40.

13 A. This --

14 Q. Can you show us where you made changes based on having  
12:58 15 to change the exterior of the building?

16 A. Not a lot changed here. I think what this builder  
17 did -- There were little changes. He wanted a little more  
18 square footage.

19 We were able to slide this entry in a little  
12:58 20 bit deeper and tuck a coat closet. I don't think we had a  
21 coat closet or maybe it was tucked in the back of this one  
22 before. We moved it over here.

23 Same bedroom, bath and closet. We were able  
24 to push the garage a -- The other one had about a  
12:59 25 three-and-a-half or 4-foot deep carport in the back. This

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1 one just has about 18 inches recessed.

2 We recessed the garage doors for two reasons.

3 One, the City has a setback requirement for the garage door  
4 from the alley. Two, it makes the back elevation that

12:59 5 everybody drives home to every day a little more  
6 interesting.

7 It was just a flat three-story wall with a  
8 garage door and there were four others next to each other on  
9 both sides of you. It's not a very pleasant thing to drive  
12:59 10 home to every day. So, if we recess it, add those little  
11 arches and add those little details, it adds interest to the  
12 home.

13 Q. Let's look at the second floor plan of the E0042.

14 And can you tell the jury what changes were  
12:59 15 made from the 8057 second floor.

16 A. Again, there's some little -- We punched out this  
17 balcony across the front. We recessed the doors in to  
18 protect them.

19 We used that recess to add an AC chase. This  
13:00 20 is the chase that goes up to the mechanical above and goes  
21 down and feeds the entry and the bedroom below.

22 The staircase is -- The staircase powder room  
23 was very similar. They really didn't change. I think they  
24 slid it back towards the back of the house with the garage a  
13:00 25 little bit.



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1 Kitchen is very similar. Dining room  
2 location, living room location, very much the same. Garage  
3 and fireplace.

4 Q. And then let's do the same thing with the third floor.

13:00 5 Can you show us what changes, if any, were  
6 made to the third floor.

7 A. From the second floor to this bedroom, everything is the  
8 same. We moved because we didn't -- he didn't want to go to  
9 the expense. He was going to try to bring them in at a  
13:00 10 little lower price.

11 So, he left the raised master suite idea out.  
12 So, this is all at the same level now. We don't have the  
13 two levels.

14 And when we realized that, we thought, you  
13:00 15 know, if -- We were trying to get a little bit bigger closet  
16 and we just couldn't get enough room.

17 So, we did an elaborate tub in the middle with  
18 separate sinks on either side and the toilet compartment and  
19 the shower across.

13:01 20 And then we created this little angle to get  
21 into the closet and we were able to go all the way to the  
22 back of the house. It's a 15- or 16-foot-long and 5- or  
23 6-foot-wide closet.

24 This is, generally, a couple. Could be a  
13:01 25 young professional. Could be an empty-nester. At this

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1 point, we're starting to see more and more empty-nesters  
2 come into the inner-city market. They may be coming out of  
3 a bigger house with more closet and they don't know where to  
4 put all their stuff. We've given them a closet they can fit  
13:01 5 it in.

6 The secondary bedroom, because it usually is  
7 just two people, we squeezed it. It doesn't have much  
8 closet. And the bathroom is tight, but it has a bathroom.

9 You can furnish it. You can get a bed on this  
13:01 10 wall. You can get a chair over in the corner. You've got  
11 your bath. You've got your closet, but....

12 Q. And --

13 A. This bathroom take note of because it becomes like a  
14 recurring theme as we go through some more plans.

13:02 15 Q. Now, the plan that you compared to one of the Urban  
16 Living plans was the E0175. Why did you pick the 8057 and  
17 0042 to modify to create your E0175 plan?

18 A. There was a little dimension difference. I believe the  
19 175 was slightly wider in -- Taking width out of the plans  
13:02 20 is harder than adding and I think the -- Well, the 057 was  
21 the same exact footprint because it was designed for the  
22 same lot. So, it was just easier. There were certain  
23 nuances to the 057 because, even though we --

24 THE COURT: When you say "designed for the same  
13:03 25 lot," the exact same lot?

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1 THE WITNESS: The exact same --

2 THE COURT: Or a lot the same size somewhere else?

3 THE WITNESS: No. It was the exact same lot.

4 Because the original builder couldn't get his financing,  
13:03 5 sold it to another builder that was also a client of ours.

6 And, so, he changed the exterior and lots of  
7 little details in the plans, but the site plan remained  
8 virtually the same.

9 Q. So, did the E0175 get built?

13:03 10 A. Yes.

11 Q. Let's go to the E0175, which is Plaintiff's Exhibit 48.

12 And this is the cover page?

13 A. This is the cover page and the front elevation.

14 Q. So, tell us about the front elevation and just what the  
13:03 15 different pieces are.

16 THE COURT: You know, it's a little bit after  
17 one o'clock. I try to -- Is this a good breaking point?

18 MR. ZUMMO: Yes, it is, Your Honor.

19 THE COURT: It seemed that way.

13:04 20 Ladies and gentlemen, in a moment, we'll take  
21 a break.

22 If you're not familiar with the downtown  
23 area -- okay? -- the eating facilities -- I think we have a  
24 really good cafeteria down on the first floor of this  
13:04 25 building.

1                   If you desire to go out of the building,  
2 directly across Smith Street is that red brick building with  
3 some of the kind of gothic spires on the top, the Bank of  
4 America Building.

13:04 5                   If you go into the lobby and take the elevator  
6 down -- the escalator down, right in front of you when you  
7 get off is the entry to the whole downtown tunnel system.

8                   There are some fast-food places at the bottom  
9 of the escalator. But if you want to go through, it goes  
13:04 10 into the whole downtown underground complex with everything  
11 from drugstores to flower shops, to a lot of eating places  
12 and so forth.

13                   So, it's now about -- pushing 1:05. We're  
14 going to take a break. Please be back ready to resume at  
13:05 15 2:15. We'll see you at that time. You may stand and go  
16 into the jury room.

17                   (Jury not present)

18                   THE COURT: We're off the record.

19                   (Off-the-record discussion)

13:05 20                   MR. ZUMMO: Your Honor, we'll be able to move  
21 faster because we've explained a lot of concepts already.  
22 But we have that one and then two more that we cover in some  
23 detail and the last one is short.

24                   THE COURT: I have no problem.

13:06 25                   By the way, just so you get a feel for the

1 time you'll get at the end of the day: The Defendant, right  
2 now, has used one hour and 5-0 minutes -- Oh. No. The  
3 Plaintiff has used one hour, 50 minutes; the defense, oh,  
4 about 20 minutes. So, that's just ballpark.

13:06 5 All right. See you back in about an hour.

6 (Lunch recess)

7 (Jury present)

8 THE COURT: Be seated, please.

9 Ladies and gentlemen, we've been working and  
14:26 10 the attorneys especially have been working on what they call  
11 a "stipulation". In fact, I've got it here.

12 A stipulation is that both sides have agreed  
13 this is a fact that they don't have to prove, either side,  
14 that it's just agreed to. And it speeds up a trial. It's  
14:26 15 about -- what did we say? -- about two and a half pages  
16 double-spaced. Okay?

17 A lot of it's technical. We're going to leave  
18 the numbers out like -- I guess you're going to leave the  
19 numbers out, the copyright numbers and so forth.

14:26 20 And if the jury needs to see this later on, we  
21 can always get that in to you during deliberations. Is that  
22 satisfactory? We'll do it that way.

23 We'll read it in. But if anybody is not sure  
24 of something, we can get the whole thing in to you. Okay?  
14:27 25 We've tried to compact it down. Mr. Bonham is going to be

*Stipulation*

1 doing the honors.

2           You're now to take this as agreed fact in this  
3 case that doesn't have to be proved by either side because  
4 they agreed that's what it is.

14:27 5           Go right ahead.

6           MR. BONHAM: Thank you, Your Honor.

7           All right. First, Preston Wood &  
8 Associates -- and we'll be saying "PWA" after that -- is a  
9 design firm in the business of creating and licensing the  
14:27 10 use of architectural works and technical drawings that were  
11 created by PWA or its predecessors.

12           Cameron Architects (Cameron) is an  
13 architectural firm. Stephen Cameron is the CEO of Cameron.

14           At all material times, Stephen Cameron has the  
14:27 15 power and ability to supervise and control the activities of  
16 Cameron and has, in fact, exercised such power and ability.

17           Stephen Cameron's ability and power to  
18 supervise and control the activities of Cameron includes  
19 Cameron's activities that are complained of herein.

14:28 20           Stephen Cameron has had a financial interest  
21 in Cameron's activities, including Cameron's activities that  
22 are complained of herein.

23           Urban Living is a real estate company. Vinod  
24 Ramani (Ramani) is the CEO of Urban Living. At all material  
14:28 25 times, Ramani has had the power and ability to supervise and

*Stipulation*

1 control the activities of Urban Living and has, in fact,  
2 exercised such power and ability.

3 Ramani's ability and power to supervise and  
4 control the activities of Urban Living includes Urban  
14:28 5 Living's activities that are the subject of this lawsuit.

6 Ramani has had a financial interest in Urban  
7 Living's activities, including Urban Living's activities  
8 that are the subject of this lawsuit.

9 PWA is the owner of all copyrights in the  
14:28 10 following architectural works and in certain technical  
11 drawings depicting such architectural works, herein after  
12 the "copyrighted works": Buckingham Job 980441937,  
13 Job D5-214; D8-057-2; E0042; E0175-A1.1-A5; E2246-A31;  
14 E2066A2.1; 00-071-2265A; and E1171-B1.1L.

14:29 15 Each of the copyrighted works is an original  
16 work that is copyrightable subject matter under federal law.

17 On January 17th, 2014, PWA and Defendant Urban  
18 Living executed a "Design-Only Stock Plan License  
19 Agreement", herein after "the Agreement". A true and  
14:30 20 correct copy of the Agreement, as executed by PWA and Urban  
21 Living, is Exhibit P1.

22 The agreement automatically terminated no  
23 later than January 17, 2015.

24 During the term of the agreement, Urban Living  
14:30 25 did not deliver to PWA any written acknowledgment and

*Stipulation*

1 agreement to be bound by the terms of the agreement executed  
2 by any outside, i.e., not an employee of Urban Living,  
3 draftsman, designer, engineer or architect that Urban Living  
4 engaged to modify PWA's works.

14:30 5 To create the construction drawings for  
6 Units 1 through 6 of Nagle Park Place, Cameron obtained  
7 PWA's CAD files for Job D5-214.

8 To create the construction drawings for  
9 Units 1 through 6 of Nagle Park Place, Cameron modified  
14:31 10 PWA's CAD files for Job D5-214.

11 To create the construction drawings for a  
12 project located at 4504 Mount Vernon, Houston, Texas, (Mount  
13 Vernon), Cameron obtained PWA's CAD files for E1171-B1.1L.

14 To create the construction drawings for Mount  
14:31 15 Vernon, Cameron modified PWA's CAD files for E1171.

16 Urban Living has created marketing materials  
17 for Nagle Park Place, Patterson Street Landing, Stanford  
18 Street Landing, and EaDo Place in the form of floor plans,  
19 elevation drawings and renderings.

14:32 20 Urban Living has distributed copies of such  
21 marketing materials for Nagle Park Place, Patterson Street  
22 Landing, Stanford and EaDo Place in the form of floor plans,  
23 evaluation drawings and renderings. Such distributions  
24 included distributions via Urban Living's web pages for  
14:32 25 those projects, e-mail distributions to prospective



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1 purchasers and real estate agents, and e-mail transmissions  
2 to other persons.

3 Finally, Defendants had access to the works  
4 Plaintiff alleges were infringed by the following

14:32 5 properties: Mount Vernon, Nagle Park Place, EaDo Place, and  
6 Patterson Street Landing.

7 THE COURT: Thank you.

8 MR. ZUMMO: Continue with Mr. --

9 THE COURT: Yes, please.

14:33 10 I just notice we may have an architectural  
11 problem here. Is this coming out again? The wood laminate  
12 is coming off again. I just looked over there.

13 (Off-the-record discussion)

14 THE COURT: With that clock back on, go right  
14:33 15 ahead.

16 (Off-the-record discussion)

17 THE COURT: Go right ahead, please.

18 MR. ZUMMO: May we have the light down, Your Honor?

19 THE COURT: Yes.

14:34 20 MR. ZUMMO: Thank you.

21 By Mr. Zummo:

22 Q. Mr. Wood, are we looking at the title page of your EO175  
23 plan?

24 A. Yes, are we.

14:34 25 MR. ZUMMO: For the record, this is Plaintiff's

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1 Exhibit 48.

2 By Mr. Zummo:

3 Q. Now, can you tell the jury why you used the 8057 and the  
4 0042 as a basis for the EO175.

14:35 5 A. Again, the shape. He was trying to put as many on the  
6 lot as he could. So, we needed to work with something that  
7 was about this size, and the shape of the lot drove us to  
8 this same shape. So, we used the plan type as a beginning.  
9 Completely different exterior.

14:35 10 This was next to an old warehouse over in kind  
11 of the border of Midtown/Montrose. There was an old brick  
12 warehouse just to the left of this, and he wanted it to feel  
13 like it was kind of part of the old warehouses that were in  
14 that area.

14:35 15 So, it's just a real simple brick box. We did  
16 punch the roof deck through the top to get the view because  
17 you're so close to downtown. The view is fabulous. That's  
18 why we did it.

19 Q. Can you show everyone what you're talking about on the  
14:35 20 roof deck.

21 A. The roof deck -- I mean, it's the same three-story plan.  
22 That's the entry in the bedroom, the living and the master.  
23 And then he added -- In this case, he added a room up there  
24 and a roof deck.

14:36 25 In front of -- or right behind this little

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1 half wall is a deck kind of at this level. So, you just go  
2 up there and barbecue or a party and everybody has a great  
3 view of downtown.

4 Q. And we'll look in a few minutes at the floor plan for  
14:36 5 that roof deck level.

6 So, can we look at the first floor plan. And  
7 what was your reason for designing the first floor the way  
8 that you did?

9 A. The same thing. It enters off the street. Garage off  
14:36 10 the alley in the back. Same dimension of the footprint.  
11 So, same ingredients. Same basic staircase. Everything is  
12 the same.

13 Q. Let's look at the second floor plan.

14 A. Again, this is the same other than the windows are  
14:36 15 completely different. The shape is a little different on  
16 the front. Balcony punched out. The kitchen was different.

17 The client wanted the kitchen to be this way  
18 with a peninsula. So, we changed the kitchen. The  
19 appliance arrangement a little different, but the staircase,  
14:37 20 powder room -- The main placement arrangement is the same.

21 Q. And then let's look at the third floor. And you said  
22 earlier that you wanted us to remember the way that the  
23 master bathroom and the walk-in closet were arranged on that  
24 earlier design.

14:37 25 Can you show us those on this third floor plan

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1 of E0175 and tell us why it's designed that way.

2 A. Again, this is the same -- the interior of this plan is  
3 the same as the 042. We just changed the outside and the  
4 kitchen a little bit.

14:37 5 But this floor, we can probably take this and  
6 overlay it on 042 and, other than the outside walls, maybe  
7 move it in a little bit.

8 The interior, the staircase, the utility room,  
9 the second bathroom, that little unusual kink angles to get  
14:38 10 from the bathroom into the closet, is the same.

11 Q. And why did you make the angle that way? And why are  
12 the dimensions the way they are?

13 A. We were just trying to get from this space. This is a  
14 standard tub that the builders like to use. It's a tub  
14:38 15 that's very common. So, it's relatively inexpensive.

16 So, we matched the dimension of the tub with  
17 the shower, and then we had to angle it back because we only  
18 had -- This bathroom is locked in by the bathroom  
19 dimensions.

14:38 20 The staircase only gives you so much left  
21 over. But we had to get from the bath into the closet. So,  
22 we angled both of these walls. The door lays back against  
23 that.

24 It works well, but we also had to get an AC  
14:38 25 chase in. This is one of those chases going from the attic

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1 down to below. So, that little area is very unusual.

2 We made decisions purposely to make that  
3 happen, but it's not something -- Two different people are  
4 not going to end up with the same results there.

14:39 5 Q. Can you show us where the door is between the walk-in  
6 closet and the master bath.

7 A. That is the door. So, when it swings open, that door  
8 lays back against that little angled wall and it's out of  
9 the way. So, you can go back and forth in through here  
14:39 10 easily.

11 The door of the shower is here. So, that's  
12 just a fixed piece of glass as you're walking by.

13 Q. When the door is closed, can you use the pointer to draw  
14 that line.

14:39 15 A. When it closes, it goes right across there and closes  
16 that off. So, you separate the bath from the closet.

17 Q. Were there any other features from the previous plan,  
18 the 0042, that you changed or modified to create the third  
19 floor plan of the EO175?

14:39 20 A. On the 0242 plan, I don't remember if we added a roof  
21 deck as well. That would be the only other differences.  
22 Some of them don't have the stair going up from here up to  
23 the fourth floor. So, this one does, obviously.

24 Q. So, let's look at that roof deck floor on this page of  
14:40 25 Plaintiff's Exhibit 48 that's marked the "terrace level".

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1 Can you tell us how this design is organized  
2 and why you did it that way.

3 A. This staircase is the same stairs from below. That wall  
4 lines up with the outside wall below. This wall lines up  
14:40 5 with the outside.

6 And that area right there is that half wall,  
7 that straight line across the front of the elevation that we  
8 were looking at that I was saying the terrace was behind it.

9 And then this is the wall of that angled roof  
14:40 10 that was in the background. But that's what we call the  
11 game room -- At this point, we called it a game room.  
12 Nowadays we call it a sitting room because it's where you  
13 get the city view. You get up here and you've got great  
14 views.

14:41 15 This -- Adding a room up here adds complexity,  
16 as far as the code. Once you put living space on this  
17 level, this whole building has to be sprinkled. But he was  
18 prepared to do that.

19 So, this has a room. Often we'll go up and  
14:41 20 just come out here to the roof deck and not have the room,  
21 but this one does have the room.

22 Q. When you say "sprinkled" what do you mean?

23 A. Fire-sprinkle the entire house. So, it adds several  
24 thousand dollars to the cost of the house and another delay  
14:41 25 and another process you have to go through to get it

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1 installed.

2                   So, the builders would rather not do it, but  
3 in this case the view was so great that it was worth doing.  
4 Somebody would be willing to pay for it.

14:41 5 Q. Did you compare your E0175 plan to the Urban Living  
6 Patterson Street Landing plan?

7 A. Yes, we did.

8 Q. And are we looking at a side-by-side comparison of part  
9 of your plan with the Patterson Street design?

14:42 10 A. Yes. That's the elevation of ours. That's the  
11 photograph of their built building. It is -- Other than  
12 slight window changes, the double doors coming out onto the  
13 little balcony in front, they -- We had a little canopy to  
14 protect the doors. They took that off.

14:42 15                   They still left the same railing around the  
16 windows on the third floor. Same little portico balcony.  
17 Same entry. Same kind of brick detail. You can see the  
18 little -- Those are rowlock courses across the bottom of  
19 that little detail there.

14:42 20                   It's the same detail over here. Theirs is the  
21 roof deck behind. They didn't do a room. Ours has a room  
22 in there. They took the windows out because they didn't do  
23 the room.

24                   Otherwise, it's the same subtle little  
14:42 25 differences, but it's obviously based on the same elevation

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1 and floor plan.

2 Q. So, let's look at the first floor plan.

3 Did you compare the first floor plans of the  
4 E0175 in the Patterson Street Landing design?

14:43 5 A. Yes. Other than it's been redrawn, meaning they drew  
6 it, but it's -- The bathroom is in the same spot. The  
7 closet is in this same spot. They opted to take one more  
8 foot out of the garage.

9 We often -- The City of Houston only requires  
14:43 10 a 19-foot-deep garage. Most cars, that works fine. But we  
11 always have some clients that have a vehicle that needs more  
12 room.

13 So, we try to make all our garages have at  
14 least one side 20 feet so you can get a full-size car on  
14:43 15 this side and anything else on that side. They've pretty  
16 much relegated it to standard cars. No big vehicles can fit  
17 in here.

18 Q. I'd like to ask you a question about garages.

19 Would it be fair to say that every garage  
14:43 20 we've looked at in your designs has been a two-car garage  
21 where two vehicles are going to park side by side?

22 A. So far, that's all we've looked at.

23 Q. Is that the only way to design a townhouse two-car  
24 garage?

14:44 25 A. No. The other way that we have done, we're doing more



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1 and more nowadays, is -- The issue with this, the  
2 20-foot-wide townhouse, you take out the wall thickness, you  
3 end up with 18 1/2 feet or so inside a wall inside a wall.

4 Two standard cars in there works fine. Just  
14:44 5 have to be really careful opening the doors because there's  
6 not a lot of room.

7 THE COURT: Opening what doors?

8 THE WITNESS: The car doors. When you get home and  
9 get out of your car, if you don't want to ding your wife's  
14:44 10 car, you'd better be careful. So, we've gone --

11 THE COURT: What about my car?

12 THE WITNESS: The judge's car, you definitely don't  
13 want to.

14 The tandem garage, what we've done is we do  
14:44 15 two deep instead of two wide. We did it on a townhouse that  
16 we built --

17 THE COURT: What do you mean by two deep instead of  
18 two wide?

19 THE WITNESS: So, there'd be one car that pulls in.  
14:45 20 Instead of this garage being side by side in width, it's  
21 36 feet deep and only 12 or some distance wide.

22 We have a lot of plans that we do now that are  
23 15 or 16 feet wide and the first floor is virtually all  
24 garage. The nice thing about it is you get lots of width.  
14:45 25 You got lots of storage on the side. You got room for stuff

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1 in the garage.

2 It's usually in places where we're trying to  
3 do affordable. So, we're trying to get a few more houses in  
4 there. They don't need that third bedroom on the ground  
14:45 5 floor. So, we just put -- It's a two-car garage.

6 Living, dining, kitchen on the second floor.  
7 Two bedrooms on the third. Sometimes the second floor is  
8 big enough to sneak a third bedroom in behind the kitchen.

9 But, anyway, that's a tandem garage. That's  
14:45 10 just another solution for garages. People say, 'Well, all  
11 garages are the same.' Well, now we do tandem garages. We  
12 do wide garages.

13 We've even done -- We did one project -- We  
14 did four-car garages by -- It was 22-foot-wide by  
14:46 15 22-foot-deep and it had an 11-foot ceiling minimum and each  
16 garage came with two lifts so you could either park your  
17 weekend car and raise it up to the ceiling and park your  
18 day-to-day car underneath it. Or what a lot of people did  
19 is they decked that lift with plywood and turned into a  
14:46 20 storeroom. They dropped it down and put all their boxes and  
21 stuff on it --

22 THE COURT: That must have been up in the high-rent  
23 district.

24 THE WITNESS: It is in the high-rent district,  
14:46 25 right across from one of the neighbors whose initials are

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1 RO. Yeah.

2 By Mr. Zummo:

3 Q. So, let's look at the second floor plans.

14:46 4 Did you compare the E0175 second floor to the  
5 Patterson Street second floor?

6 A. Yes.

7 Q. And did you find any similarities?

8 A. Yeah. The stairs the same. The powder room is in the  
9 same location. The kitchen is the same location. The sink  
14:47 10 is in the same spot. They changed the appliances up a  
11 little bit. But it's the same arrangement, the same basic  
12 dimension.

13 Q. And then let's look at the third floor plans of both of  
14 these designs.

14:47 15 Did you compare the third floor of your E0175  
16 plan to the third floor of the Patterson Street plan?

17 A. Yes, I did. And, again, the stair comes up to the  
18 landing at the same spot. We had the door on this wall.

19 They moved the door to that side, but it's the same shape.

14:47 20 The bathroom is the critical thing -- or the  
21 obvious thing that is very much the same. I know Vinod had  
22 some connections to get different appliances that my  
23 standard builders didn't get.

24 So, they used a narrower tub. So, they didn't  
14:47 25 need the angle at the end, but they still did the angle the

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1 same shape on that little AC chase. Everything else is the  
2 same. Same utility room tucked in behind.

3 Q. If the Patterson Street plan for that master bathroom  
4 and master closet had been done from scratch, would you need  
14:48 5 the angles at the doorway between the bathroom and the  
6 closet?

7 A. No. I mean, you could add a little more wall here and  
8 run that wall straight across and have the door come  
9 straight in. It could fold back against this wall. Once  
14:48 10 you've narrowed this shower up, there's several things you  
11 could do.

12 Q. So, what does it tell you; that it wasn't needed for the  
13 way that the Patterson Street bath and closet were laid out,  
14 but it's there?

14:48 15 A. That tells me that it was copied. It wasn't drawn.  
16 Somebody didn't sit down and draw this from scratch. They  
17 were looking at our drawing when they drew this.

18 Q. And then did you compare the terrace level or the roof  
19 deck of both of these plans?

14:49 20 A. Yes, we did.

21 THE COURT: What is the -- Do you mean an outside  
22 deck?

23 THE WITNESS: Correct.

24 Yes. In this -- What I was talking about  
14:49 25 before, they decided -- they opted not to do the sprinkler.

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1 So, they turned this into a giant mechanical room. It has  
2 AC units and water heater inside there. It's not a living  
3 space.

4 They wouldn't be able to finish that off and  
14:49 5 decided to just go up the stair and out to the roof. So,  
6 they made -- It's about 250, 300 feet smaller living square  
7 footage because they didn't gain that room.

8 By Mr. Zummo:

9 Q. The way that the Patterson Street design is shown on  
14:49 10 this, would they have to put in the sprinkler system that  
11 you -- the fire sprinklers that you talked about?

12 A. They would not have. Today they probably would because  
13 the City -- the permitting department got -- caught on to  
14 this. Some guys were doing this and then they wouldn't put  
14:49 15 the condensers in there or the AC units in there.

16 After they finished and got their final  
17 permit, they would finish that off or let the homeowner  
18 finish it off. They now make sure that there is no big  
19 space up there, and they inspect the fact that it is  
14:50 20 mechanical.

21 So, that probably wouldn't happen today. It  
22 would make the roof be lower. It couldn't be converted.

23 Q. What I'd like to do to help answer Judge Hittner's  
24 earlier question about the roof deck -- can you show us the  
14:50 25 roof deck here and then show us where the roof decks are on

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1 the photograph of the building.

2 A. Yeah. Our roof deck is right behind that -- well, the  
3 floor is kind of where the red dot is. That's right there.  
4 That's the window. And that's the door right around the  
14:50 5 corner coming out onto the roof deck.

6 So, I'm not sure why they opted -- It looks  
7 like that's a condensing unit for the AC they put there. It  
8 should have been in the back, but that's where it shows on  
9 the plan. But that's the roof deck.

14:51 10 So, you can walk out there and just to the  
11 right of that, on the 171, was the downtown skyline. So,  
12 you could almost reach out and touch it.

13 Obviously, here, it's in the background. So,  
14 they didn't plan that very well.

14:51 15 Q. So, was a plan that was called the E2246 another design  
16 that you did?

17 A. Yes, it was.

18 Q. Was the E2246 based on any earlier PWA designs?

19 A. It was based on this same tree that we're looking at.

14:51 20 Q. So, was it based on the E0175?

21 A. Yes.

22 MR. ZUMMO: So, can we go to the next slide,  
23 please.

24 By Mr. Zummo:

14:51 25 Q. So, would this represent the family tree that started at

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1 A057 and goes to 2246?

2 A. The one we just looked at and the one we're about to  
3 look at are all based on that same plan. We took that plan  
4 and we created this one and we redrew that to create that  
14:52 5 one again here.

6 Q. And can you tell us about the 2246 site and developer  
7 and what they were trying to do.

8 A. Let's look at that first part.

9 This was a -- It's a large project of  
14:52 10 scattered lots. There's four or five lots together here,  
11 and across the street there's three or four more lots. It  
12 was a really interesting combination of lots that was put  
13 together to develop this on.

14 So, we had six or eight plans here, a little  
14:52 15 green space, and then across the street that just -- Anyway,  
16 it was a fun project to work on.

17 There were lots of different -- I think this  
18 project had ten different versions of similar floor plans,  
19 although they were all labeled as different plans. We had  
14:52 20 ten different floor plans mixed around this site. I don't  
21 remember how many total, but 50 or 60, probably, at least.

22 It's close to downtown. It's just over off of  
23 Houston Avenue or north of Washington Avenue, south of I-10.  
24 Got great views of downtown from there.

14:53 25 Q. Let's look at the floor plans.

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1 And if you would tell us about the floor  
2 plans, what changes were made from the EO175. Let's start  
3 with the first floor plan?

4 A. Back to that elevation real quick --

14:53 5 Q. Okay.

6 A. -- because that's the one thing that changed probably  
7 the most, is the elevation.

8 If you remember, the other one was kind of the  
9 brick warehouse. This is now -- This is very modern. This  
14:53 10 client wanted a very modern look, all white stucco or white  
11 siding, whatever.

12 We found a black window that we could use to  
13 mix in, and we did a horizontal muntin on the windows,  
14 horizontal railing.

14:53 15 It's the same plan behind, but it looks  
16 totally different on the outside.

17 So, when you get to the floor plan, you can  
18 see those same -- The first floor is essentially the same.  
19 I'm not sure why they took the coat closet out, but they  
14:54 20 did. Little bigger entry. But, otherwise, it's the same.

21 Q. And let's look at the second floor.

22 A. And it is the same as well. I think this one has an  
23 island -- I can't see it, but -- instead of the peninsula.  
24 But the powder room door turned from this side to that side,  
14:54 25 and we added this bigger balcony. But this was a little



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1 different feature. We had to go to a special downdraft  
2 cooktop.

3           Some of these had great views. A lot of them  
4 are only 3 feet from their neighbor. So, even if they had  
14:54 5 windows on the side, it's only 3 or 3 1/2 feet to the next  
6 building. So, not a lot of light's coming in here.

7           So, we were really concerned with getting as  
8 much light into these plans as possible. So, we convinced  
9 the builder to just do three big windows in the kitchen and  
14:54 10 put the cooktop, the dishwasher and the sink under those  
11 windows so we got more light into the plan. Normally, they  
12 might just have a single kitchen window or maybe two but  
13 never three.

14           So, that was an unusual feature. Obviously,  
14:55 15 lots of glass on the front as well. We trimmed the corner  
16 with a little extra. We're trying to get light and make the  
17 house more liveable, make the house feel bigger, make the  
18 house feel better.

19 Q. So, let's look at the third floor.

14:55 20           How does that compare to your earlier E0175?

21 A. This is back -- Same idea. We're coming up that stair  
22 to the landing into the master suite. The shape changed.  
23 So, this is new. This is different, and that has to do with  
24 what's happening on the outside.

14:55 25           Still have our wall for a king-size bed and

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1 nightstand. Have a little sitting area over here.

2 THE COURT REPORTER: Speak slower, please.

3 THE WITNESS: I'm sorry.

4 THE COURT REPORTER: Thank you.

14:55 5 A. And, again, it's disappeared, but that's the same tub,  
6 that same angled shower, the same double vanity with the  
7 utility room behind it. That same little angle keeps  
8 showing up going into the closet. Bedroom back in the back.

9 Q. And then let's look at the -- On this diagram, it's  
14:56 10 called a "stair tower". Is this also the roof deck?

11 A. Yes. This has a roof deck on the back because this  
12 particular plan we purposely bring the stair -- That's part  
13 of the reason the stair is in the middle of the plan, front  
14 to back. So, it comes out on one side in the middle of the  
14:56 15 roof.

16 So, we could take this same plan and, in one  
17 location on the site, put the roof deck here. And then  
18 across the street the view flips. We put the roof deck  
19 here. We didn't have to change the plan. We just moved the  
14:56 20 roof deck.

21 And this is the mechanical room. We show the  
22 walls around it. But these walls are only about 4 feet  
23 high. So, if there was another house -- which often there  
24 was another house behind it -- the only thing that blocks  
14:56 25 their view is the stair tower itself.

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1                   It's a full wall height. These are low. So,  
2 the guy standing on his roof deck back here can see over  
3 that and to the view beyond.

4           Q. Did you compare your E2246 plan to the Urban Living EaDo  
14:57 5 Place plan?

6           A. Yes, we did.

7           Q. So, let's look at that.

8                   Now, is "EaDo" a term that you're familiar  
9 with?

14:57 10          A. Yes.

11          Q. What does it stand for?

12          A. "East of downtown".

13          Q. Have you done projects in EaDo?

14          A. We have.

14:57 15          Q. And, so, could you tell us, starting with the elevation  
16 and the photograph comparison, did you find any similarities  
17 between your 2246 plan and the Urban Living EaDo Place plan?

18          A. It's a little hard to tell from here because this we're  
19 looking at the end of the plan. This you're looking -- From  
14:57 20 that wall right there to this wall is basically the side of  
21 the same plan.

22                   So, there's several things that got rotated  
23 because they had a condition that we often have where I had  
24 a -- I put an alley in behind some homes that are over here.  
14:58 25 There's an alley running down through here.

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1 And I have this 25-foot spot left over that,  
2 instead of wasting it, we take this type of plan, rotate it  
3 90 degrees, bring the garage door out the side instead of  
4 the back, flip the door from the end over here to the side,  
14:58 5 flip the -- So, it's changed, but you can see -- Once we get  
6 into it, you'll see a lot of the same features.

7 Q. Let's look at the first floor of each of the plans.

8 Do you see any similarities between the first  
9 floor of your E2246 and the first floor of the Urban Living  
14:58 10 EaDo Place design?

11 A. Yes. This orientation is reversed. But it's the same  
12 bedroom down. The entry is down. The door, instead of  
13 being here on the end like ours is, they turned it to the  
14 side.

14:58 15 This parking plan was not correct with that  
16 photograph that we saw. The door was moved from here to  
17 here to come in from the side, just like the front door was  
18 moved to the side.

19 So, there's differences. But, as we go  
14:59 20 through, you'll see why they came from the same.

21 Q. Well, let's look at the second floor.

22 A. Theirs is a flipped version. You kind of see that it  
23 really is.

24 Q. So, do you see any similarities between the second floor  
14:59 25 of your E2246 and the Urban Living EaDo Place design?

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1 A. Yeah. I mean, the room is in the same spot. The  
2 kitchen is the same layout. The powder room, they shoved it  
3 back a little bit because the stair came back.

4 But there's just obvious -- Like I said, that  
14:59 5 was an unusual combination of the range and the dishwasher  
6 and the sink underneath three big windows. Even though they  
7 changed some of this to move the stair around because of  
8 what's happening, they kept that.

9 So -- And then we go to the third floor and  
14:59 10 you'll see more of that.

11 Q. Let's go to the third floor, then.

12 A. Third floor. Again, there's our version, their version.

13 The same bedroom in the back, same closet.

14 They shove -- It was very odd. They took the  
15:00 15 utility room out of here where ours was and put it up here.  
16 Made it a little bit bigger, but still it's a walk-up  
17 utility room. I'm not sure why they did that.

18 But, anyway, master bedroom is much smaller.

19 But there's that bathroom again. Same shower, same tub,  
15:00 20 flowing across from -- The vanity is here. But they just  
21 left a big void. They call it an AC chase, but I'm not  
22 sure -- it didn't get filled up, I guarantee.

23 Q. Does it have the same angle in the same position of the  
24 door between the master closet and master bath?

15:00 25 A. Yes, it does. That same little angle, same bathroom,

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1 same bathroom layout here, and same closet, same door going  
2 in, same staircase. It's kind of this corner that changed.

3 Q. And then let's look at the roof deck level.

4 Do you see similarities there?

15:01 5 A. Yes. Again, the stair tower to the side, the mechanical  
6 room next to it, the roof deck in the back.

7 Q. Now, did you also -- Is one of the plans that's involved  
8 in this case a plan that you call the D6050?

9 A. Yes, it is.

15:01 10 Q. Did you design the D6050?

11 A. I did.

12 Q. How did you design the D6050?

13 A. It was a -- It was -- Did a lot of those years ago.

14 Those were some of the first townhouses where we would take  
15:01 15 a standard 50-by-100 lot in Montrose or wherever and just  
16 cut it in half and create two 25-by-100-foot lots and do a  
17 garage in the front.

18 You walk down the side, come in the entry and  
19 it's got a kitchen, dining, living, downstairs with a  
15:01 20 backyard behind it.

21 Then the City instituted -- in the '90s  
22 sometime instituted the 17-foot garage door setback, and it  
23 made everybody push -- They were building them at 10 feet.  
24 Now they had to push the garage door back. And if you just  
15:02 25 pushed everything back, you lost half your backyard. It

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1 became barely a courtyard.

2 So, the 050 was our attempt to take the older  
3 plans that were very popular and fit it to the new code and  
4 still get that same backyard.

15:02 5 Q. So, did you develop the 6050 from an earlier plan?

6 A. The idea of it was. Yes.

7 Q. And was that earlier plan one that you called a 2265?

8 A. Yes.

9 MR. ZUMMO: So, let's go to that. And can we go to  
15:02 10 the first page of the 2265 plan, which is Plaintiff's  
11 Exhibit 63.

12 By Mr. Zummo:

13 Q. So, tell us what you meant when you said this was an  
14 older style design.

15:02 15 A. I mean, the style was more about -- You can tell when we  
16 get to the floor plan. It's an older -- It's a more  
17 traditional style, which was more --

18 THE COURT: Is that a freestanding house?

19 THE WITNESS: It's a duplex.

15:03 20 So, there's two attached on this common wall.  
21 And this guy walks down this side. The building is roughly  
22 40 feet wide, and there's basically 5 feet on each side to  
23 walk down the side to get to the front door.

24 THE COURT: Is there a firewall in between or is  
15:03 25 it --

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1 THE WITNESS. Yes. There's a two-hour firewall  
2 that goes from the foundation all the way to the peak of  
3 that roof. So, one could, technically, burn down and the  
4 other one still be there.

15:03 5 By Mr. Zummo:

6 Q. I hope you didn't have that experience.

7 A. I have never had that experience. Knock on some really  
8 fine wood here.

9 Q. So, let's go to the floor plans since you say that will  
15:03 10 help you explain it.

11 A. Actually, I was talking out of turn. But this was the  
12 later version. What I was talking to was the ones that came  
13 before when the garage door was all the way here, 2265.

14 We had already made the adjustments. So, this  
15:04 15 already has the condensed. But this, we were able to get it  
16 down to about 63 feet, I think, front to back. So, we still  
17 had the 17- or 18-by-25 backyard.

18 We used to say that's that standard West U  
19 backyard because the people that bought the expensive lots  
15:04 20 in West U and put a single-family home on the front of it --  
21 by the time they got to the back of the front setback and  
22 then they put their detached garage in the backyard, they  
23 had a 25-by-20 or -25 backyard. We had almost the same  
24 thing on the townhouse lot.

15:04 25 But here's the idea where I said this is the



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1 front facing the street. The garages are in the front. You  
2 walk down the side, come in the front door. You've got a  
3 big wide-open space, living, dining, kitchen tucked back to  
4 the front with a window outside.

15:04 5 And then one of the features we did when we  
6 created this was -- Staircase. Again, kind of similar  
7 features you're seeing from our other smaller plans, but  
8 that staircase is kind of in the middle tucked against the  
9 firewall. We hide the powder room underneath that stair.

15:05 10 So, you don't really see it in the living/dining area. It  
11 just worked.

12 Q. So, if we go to the second floor, can you tell us why  
13 you designed the second floor of the 2265 the way you did.

14 A. Well, we had a room in the back -- I mean, yard in the  
15:05 15 back, and we had street and cars in the front. So, we put  
16 the guest rooms, kids' rooms, usually on the front and the  
17 master overlooking the backyard on the quiet side of the  
18 lot.

19 And this was thinking we're selling this to an  
15:05 20 empty-nester again. So, it's got a nice bath, big tub,  
21 shower, nice sitting room, big master bedroom and a huge  
22 his-and-her closet.

23 Q. So, can we go to Plaintiff's Exhibit 68, which is your  
24 D6050 plan.

15:05 25 And can you explain to us what you did to turn

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1 the 2265 into this D6050 design.

2 A. This builder wanted a very traditional French or almost  
3 Georgian elevation, very simple architecture, nice details,  
4 windows, shutters, a little false balcony, nice gate going  
15:06 5 back to the front door. The first floor plan, when we get  
6 to it -- Let's go ahead and shift to it.

7 MR. ZUMMO: Let's go to the first floor plan.

8 A. It's basically identical. That same powder room tucked  
9 under the stair. You walk in the entry, same kitchen, same  
15:06 10 living room. All of this is the same.

11 This 050 was -- We did three homes next to  
12 each other over off TC Jester on this project. The other  
13 project was just a two-unit deal, one duplex.

14 They both were the same plan. This one,  
15:06 15 because there were three, we decided to mix it up a little  
16 bit.

17 So, one plan matched the older plan, the 2265.  
18 The other plan had a different master bedroom/master bath.  
19 We'll get to it in a second.

15:07 20 Q. I think --

21 A. Yeah.

22 Q. We were --

23 A. This is the newer version. The other two had the  
24 same -- has the 2265. This one has a full bedroom and

15:07 25 bath -- a bedroom and sitting area overlooking the backyard,

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1 lots of light and kind of a his-and-her vanity, tub, shower,  
2 toilet, not as big a closet, but a nice-size closet.

3 But we added another room. We took some of  
4 that space and -- It's the same overall dimensions. The  
15:07 5 downstairs is the same. But we now have the game room and  
6 the two bedrooms up front. So, we've added another room.

7 One plan was more for an empty-nester. This  
8 was for a young couple that has one or two kids.

9 Q. Did you compare your D6050 plan to what Urban Living  
15:07 10 called Stanford Street Landing?

11 A. Yes.

12 Q. Are there similarities between the elevations of these  
13 two plans?

14 A. A few. They changed the elevation. Same components.  
15:08 15 Just a little more modern version of it.

16 Q. Then let's compare the floor plans -- the first floor  
17 plan of this D6050 to Urban Living's Stanford Street  
18 Landing.

19 THE COURT: Which is which?

15:08 20 By Mr. Zummo:

21 Q. Which one is which, Mr. Wood?

22 A. This is the 6050. This is the marketing plan of the  
23 Stanford Street Landing.

24 Q. Just for the record, the court reporter's record --

15:08 25 A. Sorry.

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1 Q. -- the one that's at the top of the page is your 6050?

2 A. Correct.

3 Q. The one on the bottom is the Urban Living Stanford  
4 Street Landing?

15:08 5 A. Correct. Yes.

6 Q. Did you find similarities?

7 A. I mean, powder room location is laid out exactly the  
8 same. The coat closet underneath the stairs. Powder room  
9 across from it.

15:09 10 THE COURT REPORTER: Wait. Coat closet...?

11 THE WITNESS: Coat closet on one side. Powder room  
12 across from it.

13 What was a little unusual was, by shaping and  
14 cutting a corner out of the powder room, we were able to  
15 tuck the refrigerator in here, which gave us more room to  
16 get this centered range so, when you look back in here, you  
17 weren't staring at the fridge. You were staring at the  
18 range and a nice hood over it.

19 The same window on the side, same island, same  
15:09 20 pantry. And they pulled the door out a little bit. But  
21 same basic house, same floor plan, same double doors out  
22 back.

23 By Mr. Zummo:

24 Q. Let's compare the second floor plans.

15:09 25 Is this the same alignment on the page? The

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1 6050 is on the top and the Urban Living Stanford Street is  
2 the bottom?

3 A. Correct.

4 Q. Can you tell us what similarities you found here.

15:09 5 A. They tried to make little changes. So, they went back  
6 for that empty-nester buyer and gave him a little more  
7 closet and changed the arrangement.

8 The tub and shower are the same, the  
9 vanities -- a single vanity instead of two.

15:10 10 Bedroom location is the same. Much smaller  
11 bedroom, but a little bigger bath and closet.

12 And then they took the game room and turned it  
13 into a fourth bedroom.

14 The other bedroom's very similar. They  
15:10 15 flipped the bath to the opposite side.

16 So, they shuffled things around. But the main  
17 component, the main orientation of the design, the staircase  
18 location, all of that's the same.

19 Q. Now, did you also -- Is there another design that's  
15:10 20 involved in this case that's called the E1171?

21 A. Yes.

22 Q. And did you design the E1171?

23 A. Yes, I did.

24 Q. Was the E1171 plan based on any earlier Preston Wood  
15:10 25 designs?

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1 A. Yes, it was. Different from all the ones we've been  
2 looking at.

3 Q. So, was it based on -- was this a derivative of an  
4 earlier design?

15:11 5 A. Yes.

6 Q. Then, can you tell us what you did to design the 1171.

7 A. For some reason, I've lost it. Can we look at the floor  
8 plan real quick and I will tell you.

9 Q. Sure. Let's go to the floor plan.

15:11 10 A. Yeah. This is taking the plan that -- taking the  
11 staircase in a whole different -- This is close to that  
12 20-by-40. It's 21 by 38, I think, instead of 20 by 40, but  
13 in a totally different way.

14 We move the stair to the back corner. The  
15:11 15 bedroom shifted over. Same ingredients down here, but the  
16 entry comes at a little angle into the staircase.

17 It just wraps up the space, what we call  
18 "switchback" stairs. You go up to the landing and switch  
19 back and come back to the second floor.

15:12 20 Let's go to the second floor.

21 So, the staircase stays in that corner. You  
22 come back to this spot. Powder room is tucked in there.  
23 The kitchen on the back with windows to the back. The  
24 dining room in the middle. Your living room in the front  
15:12 25 with a little balcony.

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1 Q. And this is the third floor plan?

2 A. This is the third floor. The stair stays in that back  
3 corner. Guest bedroom on the back. Utility room and its  
4 bath. And then the master to the front with the master bath  
15:12 5 and closet.

6 Q. Did you compare your E1171 plan to one that Mr. Cameron  
7 and Urban Living called the Mount Vernon?

8 A. Yes.

9 Q. And did you find similarities?

15:12 10 A. They are virtually identical.

11 Q. Can we compare the front elevations of the two plans.

12 Well, first, did you find on this comparison  
13 of the cover pages the same copyright notice that we saw on  
14 the D5214?

15:13 15 A. Exactly. Correct. Our drawing -- This is our column.  
16 They've taken it off. Well, on ours, we could have taken it  
17 off and put Cameron's in the corner, pushed ours down here  
18 and left our seal.

19 The front elevation is the same, a little  
15:13 20 different [rapid mumbly speech]. But windows, doors,  
21 balcony...everything is the same.

22 Q. Let's compare the first floor plan.

23 A. The same.

24 Q. Okay.

15:13 25 A. Yeah. The door, the side light, the transoms, every

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1 window, even this little bullet window in the shower, is the  
2 same.

3 The only place -- And this is what I was  
4 talking about where, in this case, they flipped the roof  
15:13 5 deck to the front where our roof deck on this particular  
6 version is in the back. That's the only change.

7 Q. But can we compare the first floor plans.

8 A. These you'd be hard-pressed to find differences. The  
9 same font. Everything about it is the same.

15:14 10 Q. How about second floor plan?

11 A. No change. Second floor, the only change is they added  
12 this little balcony. Everything else, the appliances,  
13 everything, this big, massive pantry that we designed in our  
14 plan, just got copied over here and the appliances  
15:14 15 underneath the window. Everything about it is the same.

16 Q. And can you compare the third floor plans for us.

17 A. Same thing. There's no difference. The bathroom  
18 arrangement is the same; vanity, tub, shower, toilet,  
19 closet. Utility room is the same. The same AC chases.

15:14 20 You know, it's just a copy moved to a new lot.

21 Q. Mr. Wood, one of the questions I have about -- after  
22 looking at all these plans: You talked earlier about a  
23 20-foot by 40-foot footprint being a feature of some of  
24 these designs.

15:15 25 Is what we've seen in just this example of



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1 your work -- Does it show whether or not, if you have a  
2 20-by-40-foot footprint, you have to have the same townhouse  
3 design?

4 A. No. You absolutely don't. You can take advantage of  
15:15 5 totally different views by moving -- You may keep the stair  
6 in the same place, but you don't even have to do that. It's  
7 obvious by the 171.

8 We can move the stair to that corner. But you  
9 can also shuffle the rooms around, move them from front to  
15:15 10 back, to take advantage of different views, take advantage  
11 of different sights.

12 And the other thing that we used to do  
13 often -- You can imagine this 800 square foot or 750 feet  
14 that gets you to the 27 per acre.

15:15 15 We had a plan that, whenever we could use it,  
16 it was -- it became the favorite, which -- We called it a  
17 "box plan" because it was basically square. Instead of  
18 being 20 by 40, it was 28 by 32.

19 Same square footage. Same -- Did the same  
15:16 20 things, but it fits in a different shape lot, fits -- solves  
21 some other problems, creates a totally different plan.

22 Q. And you said 28 by 32?

23 A. Correct.

24 Q. Would that fit in this part of the courtroom, inside the  
15:16 25 bar?

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1 A. Yeah. It's probably 28 -- It almost fits inside the  
2 cove of the ceiling. It might be a foot long.

3 Q. And how many square feet is the total liveable space in  
4 that box design that would fit inside this further-down part  
15:16 5 of the courtroom?

6 A. If you do it on a three-story version of that plan, it's  
7 about just under 2,000 feet. If you add the fourth floor,  
8 it goes to 2,600 feet. So, you can do lots of different  
9 things. And we could do the same thing with a 20-by-40.

10 THE COURT: Do you find many people want an  
11 elevator put in when you're dealing with three to four  
12 stories?

13 THE WITNESS: We do. We do a lot of optional  
14 elevators. It's surprising -- Tell you a quick story about  
15:17 15 elevators.

16 We do optional elevators in a lot of  
17 three-story that have the master on the third floor.

18 We started doing four-story and it got real  
19 expensive. When the master moved to the fourth floor, we  
15:17 20 thought -- We did one project that was 125 lots in one  
21 community. Very expensive. There were four stories of  
22 living and a fifth-level roof deck.

23 And we just decided up front, you know, we're  
24 just going to put the elevator in. We're going to go  
15:17 25 negotiate the best deal we can on the elevators and we're

*P. Wood - Direct by Mr. Zummo*

1 going to put them in. Every house gets one. Comes with the  
2 house.

3 We went back two years after a number of  
4 the -- The neighborhood wasn't built out, but a lot of  
15:17 5 people had lived there for a while. We went back and called  
6 a meeting, met with them and asked them questions about how  
7 they used the house, what they like, what they didn't like.

8 The survey on the elevators -- All these people had  
9 elevators, had four and five floors. Less than 10 percent  
15:18 10 used it to ride it. It was for stuff. It was a big  
11 dumbwaiter. They put luggage in it from their car and sent  
12 it to their bedroom. They put groceries in it and sent it  
13 to the kitchen.

14 THE COURT: Till they fall down and break their  
15:18 15 hip, huh?

16 THE WITNESS: Well, it could change. I'm sure  
17 there are some that used it and won't admit it.

18 But, anyway, I was surprised at the answer.

19 THE COURT: Because they're expensive, aren't they?

15:18 20 THE WITNESS: It adds about \$30,000 to the cost of  
21 the house. So, it's an expensive option.

22 THE COURT: Yeah.

23 THE WITNESS: I'd love to find a 5,000-dollar  
24 dumbwaiter and see if they'd rather have that.

15:18 25 THE COURT: A lot of people don't know what that

*P. Wood - Direct by Mr. Zummo*

1 is, a dumbwaiter. Growing up in New York in a high-rise  
2 apartment, you have to pull that cord.

3 Go on.

4 By Mr. Zummo:

15:18 5 Q. Earlier in this examination, almost at the beginning,  
6 you said that Preston Wood & Associates had filed this  
7 lawsuit as a way to protect your life's work.

8 How do you feel that pursuing this lawsuit is  
9 protecting your life's work?

15:19 10 A. We have to put a stop to this. It's not allowed. It's  
11 not supposed to be allowed. Obviously, it's happened in  
12 this case. We need to stop it. The best way to stop it is  
13 to penalize who did it, and we need to stop this copying of  
14 the plans.

15:19 15 The biggest problem we have at this point is  
16 that not only have they copied plans, but they've handed our  
17 plans and all the work that we put into those plans over  
18 40 years to three or four or five other architects,  
19 designers, that now have the luxury of all of our lessons  
15:19 20 that they can add into their plans.

21 So, we've got to find a way to get some of  
22 this back and.... Anyway....

23 Q. And how do you feel about what Urban Living has done  
24 here?

15:20 25 A. I'm just sorry it happened. I wish it hadn't happened.

*P. Wood - Cross by Mr. Strother*

1 I thought we had a really good relationship with Vinod, and  
2 we had done several things together in the past. But this  
3 obviously went sour.

4 MR. ZUMMO: No further questions, Your Honor.

15:20 5 THE COURT: Thank you.

6 Go right ahead, sir.

7 MR. STROTHER: Thank you, Your Honor.

8 I have very brief direct, at some point,  
9 cross.

15:20 10 THE COURT: Well, this is cross.

11 MR. STROTHER: Yes, Your Honor.

12 At some point, I'm going to be using the  
13 easel. May I move it to where I --

14 THE COURT: Yeah. Sure.

15:20 15 MR. STROTHER: Thank you, Your Honor.

16 THE COURT: Just make sure the jurors --

17 Can everybody see it? All right.

18 Can you see it?

19 THE WITNESS: I can see it, but I may block you.

15:21 20 THE COURT: No. Don't worry about that.

21 CROSS-EXAMINATION

22 By Mr. Strother:

23 Q. Mr. Wood, how are you?

24 A. I'm good. Thank you.

15:21 25 Q. You and I have not met --

1 A. I could use a glass of water.

2 Q. Oh. Well, let's do that first.

3 A. No. I'll make it.

4 THE COURT: No. Get the man a glass of water.

15:21 5 By Mr. Strother:

6 Q. It can be on my clock.

7 A. My bottle is right there. Just hand me that bottle.

8 Thank you.

9 MR. STROTHER: And, Your Honor, may I have the  
15:21 10 document camera turned on? I've got the easel in front of  
11 the screen.

12 (Juror positions easel)

13 JUROR: Can everybody see?

14 THE COURT: Absolutely. I'm going to stop this for  
15:21 15 a second. That reminds me of something.

16 (Off-the-record discussion)

17 THE COURT: Go on.

18 MR. STROTHER: Thank you, Your Honor.

19 May I use the document camera, Your Honor?

15:23 20 THE COURT: Sure. All right. Yeah. You want the  
21 overhead. Correct?

22 MR. STROTHER: Yes.

23 THE COURT: Give me a second.

24 You want the light out, I assume. Correct?

15:24 25 MR. STROTHER: Yes, Your Honor.

*P. Wood - Cross by Mr. Strother*

1 THE COURT: It's on now.

2 MR. STROTHER: Okay. Thank you.

3 THE COURT: Now, is your -- You're going to use it.

4 Okay.

15:24 5 MR. STROTHER: Yes, Your Honor.

6 THE COURT: There it goes. Okay.

7 By Mr. Strother:

8 Q. Mr. Wood, I would like to show you Plaintiff's Exhibit

9 No. 1. This is the document that we've referred to a couple

15:24 10 of times today.

11 It's the license agreement between Preston  
12 Wood & Associates and Urban Living. Correct?

13 A. Okay.

14 Q. Are you familiar with it?

15:24 15 A. Not terribly. Again, that was after I left.

16 Q. Understood. I only have one question about it, then.

17 Do you deny that the cost to Urban Living for  
18 each use of the plan was only \$250?

19 A. I do not deny that.

15:24 20 Q. Thank you.

21 THE COURT: Now, do you want the computer on?

22 MR. STROTHER: Yes, Your Honor.

23 I still would like this document camera on,  
24 please.

15:25 25 THE COURT: All right. I'll leave it on.

*P. Wood - Cross by Mr. Strother*

1 Do you want the light on or do you want the  
2 light off?

3 MR. STROTHER: Can we leave it off briefly, Your  
4 Honor?

15:25 5 THE COURT: That's fine. We'll leave it off. Let  
6 me know when you're done with the overhead.

7 MR. STROTHER: Yes, Your Honor.

8 And, by the way, Your Honor, I anticipate this  
9 taking less than ten minutes.

15:25 10 THE COURT: That's all right. Go on.  
11 By Mr. Strother:

12 Q. Is it okay if I call the company "PWA"?

13 A. Absolutely.

14 Q. Thank you.

15:25 15 THE COURT: Pull the mic in a little bit, counsel.  
16 Pull it in and down.

17 MR. STROTHER: Thank you.

18 Q. It's true that Preston Wood -- I'm sorry. You're  
19 Mr. Wood.

15:25 20 It's true that PWA is not suing any defendant  
21 for that \$250 per use. Right?

22 A. That's correct.

23 Q. Instead, what Preston -- what PWA is doing is they're  
24 suing for each of the Defendant's profits from the alleged  
15:25 25 use of that plan. True?



1 A. Correct.

2 Q. I'd like to show you Defendants' Exhibit 17.

3 I understand that you've probably not seen  
4 this document before, but there are a few numbers that I  
15:26 5 would like to just call to your attention.

6 If you'll see, this document lists various  
7 addresses and what the sales price of those homes were.

8 A. Correct.

9 Q. Have you seen this document before?

15:26 10 A. I have not.

11 Q. And do you see that, at least on this page, it lists  
12 three of the projects that we've been talking about --  
13 EaDo Place, Stanford Street and Patterson Street Landing?

14 A. I see those.

15:26 15 Q. Are you generally familiar with the sales prices of  
16 these projects or projects like them?

17 A. Generally, yes.

18 Q. Is there anything about these sales prices that strikes  
19 you as odd or normal?

15:26 20 A. No. They're pretty typical.

21 Q. Okay. I'm going to leave it up here while I ask you a  
22 few more questions.

23 A. Okay.

24 Q. So, with regard to Urban Living, who is a real estate  
15:26 25 broker, do you see that there's a column that lists gross

1 commission from the sale of each of those homes?

2 A. Yes, I do.

3 Q. And are you familiar what's typical in the industry,  
4 that 3 to 6 percent commission?

15:27 5 A. Yes.

6 Q. For illustrative purposes, I am going to pick the  
7 biggest commission on that page. For your sake and the  
8 jury's sake, I understand that, if I picked a much smaller  
9 number, it would be to a different result. I'm just  
10 admitting that at the outset.

11 Is PWA suing for Urban Living's gross  
12 commission, for example, in the amount of \$27,900 on  
13 Stanford Street?

14 MR. ZUMMO: Your Honor, we object to the  
15 characterization of the question because the Section 504(b)  
16 sets out how the profits are to be proven.

17 THE COURT: All right. Your response.

18 MR. STROTHER: I'm only asking, Your Honor, if  
19 that's what he is suing for. And if 504(b) says that, then  
20 it does. I'm asking if he is suing for that amount.

21 MR. ZUMMO: We're suing for the profits as  
22 permitted by 504(b). So, we think it's unfair to make it  
23 sound like we're asking for the entire gross commission when  
24 we all know that they're going to try to prove their  
25 expenses.

*P. Wood - Cross by Mr. Strother*

1 MR. STROTHER: That's fair. Can I preface my  
2 question?

3 THE COURT: Yeah. Rephrase it, then. Sure.

4 MR. STROTHER: Okay.

15:28 5 By Mr. Strother:

6 Q. I'm not try -- I'm a different kind of lawyer. I am not  
7 trying to drag you into a trick. I do hope to illustrate  
8 something for the jury about what it is you're seeking. So,  
9 let me see if I can preface my question in a way that makes  
15:28 10 you comfortable answering it.

11 Earlier, in my opening statement, I was  
12 demonstrating gross revenues less deductible expenses.

13 Are you familiar with how deductible -- I'm  
14 not talking about in the context of a lawsuit. I'm just  
15:29 15 talking, generally, as a bookkeeping principle, that one can  
16 take in gross revenue and then deduct expenses from that  
17 gross revenue.

18 A. Sure.

19 Q. And that, generally --

15:29 20 A. Standard business practice.

21 Q. Okay. And that, generally, leads to profit -- or a  
22 calculation of profit. Right?

23 A. Yes.

24 Q. Okay. And, as I pointed out in opening statement, the  
15:29 25 different parties in this lawsuit are probably going to be

*P. Wood - Cross by Mr. Strother*

1 debating about what the deductible expenses are. Right?

2 A. I don't know that.

3 Q. Fair enough.

4 So, I'm going to go back to my question now.

15:29 5 When I was asking about the 27,900, I should  
6 have said: Is PWA suing Urban Living to recover that  
7 27,900 less deductible expenses?

8 A. You're asking the wrong person.

9 Q. You don't know if that's a number that has anything to  
15:29 10 do with what the damages are?

11 A. No.

12 Q. Who is the right person to ask?

13 A. I guess Louis or Samantha. But I -- The specifics of  
14 the dollars -- I just know that we're trying to get this  
15:30 15 resolved --

16 Q. Understood.

17 A. -- and stopped.

18 Q. Understood. Understood.

19 After -- You're not an employee of PWA right  
15:30 20 now?

21 A. No.

22 Q. So, what was your role with PWA when what you believed  
23 was infringement was discovered by PWA?

24 A. By the time it was discovered I was working at Weekley;  
15:30 25 so, I no longer was an employee.

S. Wood - Direct by Mr. Bonham

1 Q. So, if I have questions about what PWA did when it  
2 discovered that, would those questions be best directed to  
3 someone else?

4 A. Yes.

15:30 5 Q. What other witness?

6 A. Samantha.

7 MR. STROTHER: Your Honor, I'll pass the witness.  
8 No easel needed.

9 MR. ZUMMO: We have no other questions.

15:30 10 THE COURT: Thank you, sir. You may step down.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness, please.

13 MR. BONHAM: Your Honor, Plaintiff calls Samantha  
14 Wood.

15:31 15 THE COURT: Okay. Raise your right hand to be  
16 sworn.

17 **SAMANTHA WOOD, CALLED BY THE PLAINTIFF, SWORN**

18 THE COURT: Have a seat.

19 DIRECT EXAMINATION

15:31 20 By Mr. Bonham:

21 Q. If you would, introduce yourself to the jury, please.

22 A. Samantha Wood.

23 Q. Ms. Wood, what is your position with PWA?

24 A. I am part owner with my husband, Preston, and I  
15:31 25 basically manage the day-to-day operations.

S. Wood - Direct by Mr. Bonham

1 Q. And can you briefly describe what Preston Wood &  
2 Associates' current business is.

3 A. Now that we're much smaller, we basically license our  
4 stock plans and we do redraws. We do some land planning,  
15:31 5 but that's typical.

6 Q. What was the first time that you met Vinod Ramani?

7 A. We met him in the '90s. Basically, he had just opened  
8 his office or recently had opened up a real estate company  
9 over on Washington.

15:32 10 And he had a tracking software that he thought  
11 we meet be interested in. So, he contacted us. We went and  
12 saw a presentation at his office, and it wasn't for us. So,  
13 we didn't make --

14 THE COURT: Whose office did you go to?

15:32 15 THE WITNESS: We went to Vinod's office, Urban  
16 Living on Washington.

17 THE COURT: And his last name is?

18 THE WITNESS: Ramani.

19 THE COURT: Mr. Ramani.

15:32 20 THE WITNESS: That's his surname. I'm sorry.

21 THE COURT: Is he here that you can identify him?

22 THE WITNESS: No. He's not here.

23 THE COURT: Not here?

24 Go on.

15:32 25 MR. BONHAM: Thank you.

*S. Wood - Direct by Mr. Bonham*

1 By Mr. Bonham:

2 Q. So, what was the next business that you did with  
3 Mr. Ramani?

4 A. I mean, I know my husband has said -- and it's true --  
15:32 5 there was times when we had business together in the sense  
6 that he had clients that we were dealing with and the  
7 clients would give us information that Vinod wanted  
8 regarding things in houses and which plans.

9 But when we actually did business with him it  
15:33 10 was in 2012 in a significant way.

11 Q. What was that transaction?

12 A. He had a client named Princeton Classic Homes, and he  
13 was selling them lots in the inner city -- Heights,  
14 Montrose, that kind of thing -- and he wanted us to select  
15:33 15 plans that we thought would be best from our stock plans on  
16 those lots.

17 Q. Did you do business with that client?

18 A. We did.

19 Q. And, again, did Preston Wood license plans to that  
15:33 20 client or to Urban Living?

21 A. To the client directly.

22 Q. Were there changes made to those plans?

23 A. Some of them were stock, but a lot of them were changes.

24 Q. And who made the changes?

15:33 25 A. Preston Wood & Associates.

S. Wood - Direct by Mr. Bonham

1 Q. So, not the client?

2 A. No.

3 Q. And not Urban Living?

4 A. No.

15:33 5 Q. What other kind of business have you done after that  
6 with Urban Living?

7 A. I think that worked very well, and that was in 2012 and  
8 '13 when the market was really pretty crazy.

9 THE COURT: Slow down a little bit, please.

15:33 10 THE WITNESS: I'm sorry.

11 Vinod was buying more lots and actually  
12 sending what he called a "land kit". He would send  
13 sometimes directly to us the information about the lots, and  
14 he would want us to do the same thing, to try and find  
15:34 15 product that would fit those lots.

16 And then he would forward the -- you know, he  
17 would pick the client, a builder, and then forward the  
18 builder to us later.

19 Q. And what would you send that builder?

15:34 20 A. We sent them the marketing plans.

21 MR. BONHAM: Mr. Cooper, would you bring up  
22 Exhibit 92, please.

23 THE COURT: All right. Hang on a second. Let me  
24 get the video set up.

15:34 25 By Mr. Bonham:



*S. Wood - Direct by Mr. Bonham*

1 Q. Ms. Wood, do you recognize what's being shown to you as  
2 Exhibit 92?

3 A. Yes.

4 Q. And is this one of the Preston Wood marketing plans?

15:34 5 A. Yes, it is. It's D5-214.

6 Q. And this is the kind of materials that you would have  
7 sent to the builders that Mr. Ramani would refer to you?

8 A. Absolutely.

9 Q. I'd like you to blow up a couple of things.

15:35 10 MR. BONHAM: The next slide.

11 By Mr. Bonham:

12 Q. This is the upper right-hand corner of this.

13 Would you explain what that large black  
14 rectangle is.

15:35 15 A. That's our logo. It's been our logo for many years.

16 This has our logo, job number, and then information on the  
17 plans, square footage of each floor and --

18 MR. BONHAM: Would you blow up the bottom of  
19 Exhibit 92.

15:35 20 Q. And it's in very small type there, but we've blown up  
21 the bottom half of it again.

22 Can you tell the jury what this is.

23 A. Yes. Again, it's information about us. But the bold  
24 part is what's really important. It's our plans. It's our  
15:35 25 copyright so people know it belongs to Preston Wood &

*S. Wood - Direct by Mr. Bonham*

1 Associates.

2 Q. Now, these kinds of things, like the Preston Wood logo  
3 and the copyright notice, is this something that you would  
4 put on all your marketing materials?

15:35 5 A. It's what we always wanted to put on there. Our  
6 intention was to always have that information on our plans.

7 Q. Why was that?

8 A. Because it told the world who the plans belonged to. It  
9 protected our copyright and lifework.

15:36 10 Q. Now, your husband testified about when, after he went to  
11 work for David Weekley and the company went from 25 down to  
12 three employees -- after that was out in the market, did  
13 Vinod Ramani contact you?

14 A. Yes, he did.

15:36 15 Q. What did he have to say?

16 A. He basically approached us with an idea that he wanted  
17 to be the go-to or main person within the beltway that had  
18 the PWA portfolio, and then he also wanted to be able to  
19 make plan changes, changes to the plans.

15:36 20 Q. Was that different from the way you'd been doing  
21 business in the past?

22 A. Yes. We had always done any changes just within -- PWA  
23 employees, just within our office.

24 Q. Was this kind of a deal interesting to PWA at that time?

15:36 25 A. Yes. It was interesting because, at that point, we'd

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1 done it for 25 people, for three people, plus we made this  
2 transition to Weekley, and we still had a lot of workload  
3 from 2013 that we needed to finish because, again, we were  
4 logging in 2-, 300 jobs a year. We were a very busy  
15:37 5 company.

6 And, personally, I had some things, too. My  
7 mom was going through the final stages of Alzheimer's and  
8 our daughter was getting married in 2014. I was helping her  
9 plan her wedding.

10 So, yes, it seemed like a -- You know, it  
11 seemed like something that would really work for us at the  
12 time and where we were.

13 Q. Did you have any concerns about the nature of this  
14 potential deal?

15 A. Yes, we did. I mean, obviously, the big concern was  
16 that we had always sheltered our plans and protected our  
17 copyright and now, with somebody else wanting to make the  
18 changes, our fear was it could get out to more builders or  
19 more people and we would lose control. And, so, we were  
15:37 20 very concerned.

21 Q. Now, originally, who were the parties to this  
22 transaction going to be?

23 A. Originally, it was Vinod Ramani with Urban Living and it  
24 was Tom Thibodeau, who had a company Cityside Homes.

15:38 25 Q. And Preston Wood & Associates?

*S. Wood - Direct by Mr. Bonham*

1 A. And Preston Wood & Associates.

2 Q. And who ultimately entered into the transaction?

3 A. Preston Wood & Associates and Urban Living.

4 MR. BONHAM: Exhibit 1, please.

15:38 5 By Mr. Bonham:

6 Q. And this is the contract that you signed with Urban  
7 Living, Exhibit 1?

8 A. Yes, it is.

9 Q. Which plans in the Preston Wood portfolio did Exhibit 1  
15:38 10 cover?

11 A. It covered all of our plans, with the exception of what  
12 David Weekley had purchased, which was their portfolio that  
13 we would do business with them for many years, and then it  
14 was also anything that was on CAD. All the plans they got  
15:38 15 that were on here were on CAD.

16 Q. So, approximately, how many plans was this covering?

17 A. 38 years. So, it was thousands of plans.

18 Q. Now, did it include all the plans covered in this  
19 lawsuit?

15:38 20 A. Yes.

21 Q. All right. Now, how could Urban Living view these  
22 thousands of plans that are covered potentially by this  
23 license agreement?

24 A. They either went to the website or we had -- it's called  
15:39 25 Smartsheet. And Smartsheet is like -- It's like an Excel on

*S. Wood - Direct by Mr. Bonham*

1 steroids. It can do searching by -- with a depth and it  
2 pulls -- has a database and can pull up our marketing plans.

3 MR. BONHAM: Pull up 92 again, please.

4 By Mr. Bonham:

15:39 5 Q. So, again, for example, the Smartsheet. Urban Living  
6 could view this type of marketing material?

7 A. Absolutely.

8 Q. And that's for all the plans at issue in this case?

9 A. Yes.

15:39 10 Q. And you mentioned the website. You mean the Preston  
11 Wood website?

12 A. Yes, I do.

13 Q. Would the Preston Wood website at this time have  
14 contained this same kind of information?

15:39 15 A. Yes, it did.

16 Q. Now, before the days of the Internet when everyone has a  
17 website, how did Preston Wood get these marketing materials  
18 out to their clients?

19 A. We had plan books. So, we had plan books full of these  
15:39 20 marketing plans. And, like, for townhouses, they were by  
21 the year they were created. And for single-family it was by  
22 square footage.

23 They could come in and look at the books or  
24 we'd send it to them.

15:40 25 Q. What format would these have been in? Were these

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1 printed books or loose-leafs or what?

2 A. They were loose. These were all printed and put in the  
3 ring binders.

4 Q. Three-ring binders?

15:40 5 A. Yeah. We have lots of them. We don't use them much  
6 now.

7 Q. Well, you say you don't use them much now.

8 How do your clients get your marketing  
9 materials now?

15:40 10 A. We use a website. So, the website sends them the  
11 information.

12 Q. Now, I'd like to talk about some of the specific  
13 provisions of Exhibit 1.

14 MR. BONHAM: If you would put up the next slide.

15:40 15 By Mr. Bonham:

16 Q. Why did Preston Wood put conditions on granting  
17 permission to Urban Living to use its works?

18 A. Again, kind of -- We're just three people. We -- I  
19 mean, number one was to protect our plans, but we also  
15:40 20 couldn't be a watchdog or know the whereabouts of the plans.  
21 So, we needed to have some rules put in place to make sure  
22 that we're protected.

23 Q. In other words, these are the rules that they have to  
24 follow in order to use your stuff?

15:41 25 A. That's how we see it.

*S. Wood - Direct by Mr. Bonham*

1 Q. Okay.

2 A. It was the easiest thing for me to....

3 Q. Okay.

4 MR. BONHAM: Pull up the next slide, please.

15:41 5 By Mr. Bonham:

6 Q. So, what is -- This is Item 1(c) in the license  
7 agreement. What is this?

8 A. This is a rule that Urban Living had to follow in order  
9 to sublicense our plans to builders.

15:41 10 Q. And if you look at -- Make sure I don't blind someone.  
11 There we go.

12 What is this section under No. 2?

13 A. This is what the builder or sublicensee -- They had to  
14 acknowledge in writing and agree to follow the same rules in  
15:41 15 the contract as Urban Living.

16 Q. And why was that important to Preston Wood & Associates?

17 A. To control our plans and our copyright.

18 Q. Did Urban Living ever deliver to Preston Wood any  
19 sublicensee's written acknowledgements and agreement to  
15:42 20 follow the rules?

21 A. No.

22 Q. Never?

23 A. No.

24 Q. Let's look at another provision.

15:42 25 MR. BONHAM: If you'd pull this up.

*S. Wood - Direct by Mr. Bonham*

1 By Mr. Bonham:

2 Q. What is this? This is Item 2 of Exhibit 1 on Page 2.

3 A. This is a rule that Urban Living had to follow if they  
4 wanted to have someone outside your -- like an engineer or  
15:42 5 an architect or a designer, if they wanted to make  
6 modifications to the plans.

7 Q. And you're focusing on this highlighted section here in  
8 the middle?

9 A. Yes.

15:42 10 Q. And, again, why was that important?

11 A. To protect our copyright and our plans.

12 Q. So, in other words --

13 A. They need to acknowledge it. We needed it in writing.

14 Q. So, in other words, if they wanted to hire an outside  
15:42 15 draftsman, designer, engineer or architect, that person had  
16 to agree in writing to follow the rules?

17 A. Absolutely.

18 Q. Did Urban Living or any outside draftsman, designer,  
19 engineer or architect ever deliver to Preston Wood a written  
15:43 20 acknowledgement and agreement that they follow the rules?

21 A. No.

22 Q. Never?

23 A. No.

24 Q. Looking at the last sentence, why did Preston Wood not  
15:43 25 allow builders that got plans from Urban Living to modify



*S. Wood - Direct by Mr. Bonham*

1 the plans?

2 A. Because the rule was that the only -- only PWA could  
3 modify the plans or give permission for Urban Living, if you  
4 followed the rules of the contract.

15:43 5 MR. BONHAM: Go to the next slide, please. Back up  
6 one, please.

7 By Mr. Bonham:

8 Q. It indicates in Exhibit D as being the form that the  
9 outside people had to sign. Is that correct?

15:43 10 A. Yes, it is.

11 Q. Okay.

12 MR. BONHAM: Now go to the next slide.

13 By Mr. Bonham:

14 Q. This is Exhibit B.

15:43 15 MR. BONHAM: And it's kind of small; so, let's blow  
16 it up a bit.

17 Q. What are these two items from Exhibit B?

18 A. This is where the engineer or the draftsman had to also  
19 sign and agree and then they had to, as soon as the plans --

15:44 20 It's just the rules. It's just the rules they had to  
21 follow.

22 Q. And those rules included that they had to assign to PWA  
23 all copyrights --

24 A. Yes.

15:44 25 Q. -- in any modified plans and they had to send you copies

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1 of those plans?

2 A. Absolutely. Yes.

3 Q. At any time during this agreement did any outside, you  
4 know, engineer, draftsman, designer or architect ever send

15:44 5 PWA any modified plans?

6 A. No, they didn't.

7 Q. Did any of them ever assign their copyrights to PWA?

8 A. No.

9 Q. All right.

15:44 10 MR. BONHAM: Go to the next side, please.

11 By Mr. Bonham:

12 Q. This is also Exhibit No. 2. It talks about -- Well,  
13 what is this?

14 A. It just says we have to keep all of the copyright -- the  
15:45 15 copyright information has to be in all the drawings.

16 Q. And this talks about copyright management information.

17 And what did PWA mean by "PWA's copyright  
18 management information"?

19 A. It's our copyright. And it's to, again, let the world  
15:45 20 know that the plans still belong to us.

21 Q. Okay. Was this also addressed elsewhere in the  
22 contract?

23 A. Yes, it was.

24 Q. Okay.

15:45 25 MR. BONHAM: If you'd go to the next slide, please.

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1 By Mr. Bonham:

2 Q. Is this provision from the agreement dealing with what  
3 they were supposed to do about copyright management  
4 information?

15:45 5 A. Yes. That's the information that's supposed to be on  
6 the plans or on the marketing plans at all times.

7 Q. And just to --

8 A. And these are the rules.

9 Q. These are the rules they had to follow in terms of  
15:45 10 maintaining the copyright management information?

11 A. Absolutely.

12 Q. If they wanted to use and distribute materials, they had  
13 to follow that rule?

14 A. Yes.

15:45 15 Q. Okay. And with respect to all of these rules, did Urban  
16 Living agree to follow all of these?

17 A. Yes, he did.

18 Q. All right. I'd like to next direct your attention -- We  
19 talked about the project Nagle Park Place or "Nagle".

15:46 20 A. Uh-huh.

21 Q. Did Urban Living order Plan D5-214 for Nagle?

22 A. Yes, he did.

23 Q. And what did PWA do?

24 A. We sent him CAD drawings.

15:46 25 Q. What happened next?

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1 A. A short while after, they came back and said they didn't  
2 want the plan because there was some problems with the plan.  
3 And, so, we refunded their money.

4 Q. Okay.

15:46 5 MR. BONHAM: If you could bring up the e-mail.

6 By Mr. Bonham:

7 Q. I'm showing you what's taken from Exhibit P-103.

8 Is this the e-mail that you received from  
9 Urban Living?

15:46 10 A. Yes, it is.

11 Q. And it indicates that Mr. Cameron ended up having to  
12 draw a plan from scratch. "So, we didn't even use this  
13 plan."

14 A. Correct.

15:46 15 Q. Is that what they told you?

16 A. Yes.

17 Q. And you said they wanted their money back.

18 Did you give them their money back?

19 A. We, actually, do credit. We gave them a credit on the  
15:47 20 next payment.

21 Q. Okay. I'd like to direct your attention briefly to some  
22 of the other plans that your husband testified about.

23 Are you familiar with Plan E0175?

24 A. Yes, I am. It's a very popular plan.

15:47 25 Q. How many times -- Have you sold this plan to other

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1 builders in the Houston market?

2 A. Yes, we have. We've probably sold it hundreds of times.

3 Q. Well, what areas of town has EO175 been built in?

4 A. It's all over the inner city. A lot of this plan is

15:47 5 probably Montrose, Heights, EaDo, lower parts of the

6 Heights. It's really all over. It's very popular.

7 Q. How long has this plan been built in the Houston market?

8 A. With this derivative, it's been so many years. I don't

9 know exactly, but it's been many years it's been in service.

15:47 10 MR. BONHAM: Your Honor, may I approach?

11 THE COURT: Yeah.

12 (At the bench)

13 THE COURT: All right. What do you got?

14 MR. BONHAM: I don't believe this offends your

15:48 15 motion in limine, but I'd rather ask and make sure.

16 THE COURT: Which one?

17 MR. BONHAM: I want to ask her whether or not Urban

18 Living ordered this plan. They did three times. I'm not

19 going to say to the jury that those are infringing. There

15:48 20 are no lawsuits filed on them.

21 THE COURT: Where do you think it may run --

22 MR. BONHAM: Excuse me?

23 THE COURT: -- where you may run into a problem

24 with it?

15:48 25 MR. BONHAM: It's dealing with his Motion in Limine

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1 No. 3 and when she talks about other infringements.

2 THE COURT: Hang on a second. And, again, I'm not  
3 going to be --

4 Okay. Other alleged infringements that are  
15:48 5 not at issue in this lawsuit.

6 So, what are we talking about?

7 MR. BONHAM: I'm not alleging infringement. All  
8 I'm trying to do is to establish that Urban Living got a  
9 copy of these plans and that Cameron had copies of these  
15:49 10 plans and that the developer of the -- of Patterson,  
11 Stanford and EaDo -- Because they had been dealing with  
12 Urban Living, they had this -- For example, on this one,  
13 they licensed it and Oppidan, who is the same builder --

14 THE COURT: You're not alleging --

15:49 15 MR. BONHAM: I'm not alleging infringement.

16 THE COURT: I'm reading the exact words.

17 Any problem with that?

18 MR. STROTHER: Yes, Your Honor. We already have an  
19 agreement that my client had access to the plans and it's  
15:49 20 something that he read. So, it's irrelevant at this point.  
21 It's already going to be sent to the jury. There's a danger  
22 of getting into the alleged infringements.

23 MR. BONHAM: I'm not going to get into -- I'm not  
24 going to assert infringement. All I'm going to do is --

15:49 25 THE COURT: What's the question?

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1 MR. BONHAM: I'm just saying, if I ask her, 'Did  
2 Urban Living ever order this plan?', she's going to answer,  
3 'Three times.' And I'm going to say, 'Do you know if one of  
4 those is the Museum Terrace?' I'm going going to say, 'Who  
15:49 5 is Museum Terrace?' She's going to say, 'Oppidan.'

6 THE COURT: No problem.

7 MR. BONHAM: I would like to do the same thing on  
8 E2246. I'm not going to say infringement.

9 MR. STROTHER: May I ask a question of counsel?

15:50 10 THE COURT: Sure.

11 MR. STROTHER: Has she been told not to get into  
12 infringement?

13 MR. BONHAM: Absolutely. I've --

14 MR. STROTHER: I'm okay with that.

15:50 15 THE COURT: Then, we're okay with it. Just word it  
16 carefully. Put it right down the channel. Even though it's  
17 your own witness, if you want to be ultra-safe, I'll allow  
18 you just to lead her so she doesn't get into trouble. You  
19 tell me.

15:50 20 MR. STROTHER: I'm okay with that, too, Your Honor.

21 THE COURT: All right.

22 (In open court)

23 THE COURT: Go right ahead.

24 MR. BONHAM: Thank you.

15:50 25 By Mr. Bonham:

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1 Q. Ms. Wood, talking about E0175, did Urban Living ever  
2 order this plan?

3 A. Yes, they did.

4 Q. How many times?

15:51 5 A. Three times. They ordered it for Blodgett Street --  
6 they called it "Museum Terrace" -- and they ordered it for  
7 Fannin Street and for Offut Street.

8 Q. Talking about the Museum Terrace or the Blodgett  
9 project, do you know who the developer of that was?

15:51 10 A. Yes.

11 Q. And who was it?

12 THE COURT: Ma'am, do you want to pull the mic in,  
13 please.

14 A. The name was "Oppidan".

15:51 15 By Mr. Bonham:

16 Q. Did Urban Living ever order Plan E0175 for the Patterson  
17 Street Landing project?

18 A. No, they did not.

19 Q. So, they never paid for or reported it?

15:51 20 A. No, they did not.

21 Q. Do you know now who the developer of Patterson Street  
22 Landing was?

23 A. Yes.

24 Q. Who was it?

15:51 25 A. Oppidan.



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1 Q. The same people who had developed Museum Terrace?

2 A. Exactly.

3 Q. Okay.

4 MR. BONHAM: Next slide, please.

15:51 5 By Mr. Bonham:

6 Q. Are you familiar with Plans 2265 and 6050?

7 A. Yes, I -- Yes, I am.

8 Q. Have these been built by PWA licensees in the Houston  
9 area?

15:52 10 A. Yes, they have. They're side-by-side and they're very  
11 popular.

12 Q. About how many times has this been built in the Houston  
13 area by your licensee --

14 A. Hundreds --

15:52 15 Q. Let me finish my question. The court reporter will hit  
16 us both.

17 How many times have PWA licensees constructed  
18 this plan in the Houston area?

19 A. Hundreds of times.

15:52 20 Q. And what areas of town have these been built in?

21 A. Again, it's all in the inner city -- Montrose, Heights,  
22 East End. All the neighborhoods. Some of this may even be  
23 a little further --

24 THE COURT: I can't hear you, please.

15:52 25 THE WITNESS: I'm sorry.

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1 All over the inner city. Montrose, EaDo,  
2 eastside, that area.

3 By Mr. Bonham:

4 Q. And approximately how long have these plans been in the  
15:52 5 market?

6 A. These have been in for quite a while because,  
7 originally, this 50-by-100 lot we did a lot. But many  
8 years, say. I don't know exactly.

9 Q. Now, during the term of the agreement, were these  
15:53 10 interior view plans ones that Urban Living could view on  
11 Smart Street and on PWA website?

12 A. Yes.

13 Q. Did Urban Living ever order either of these plans for  
14 the Stanford Street Landing project?

15:53 15 A. No.

16 Q. So, they never paid for it?

17 A. No.

18 Q. Do you know who the developer of Stanford Street Landing  
19 was?

15:53 20 A. Yes.

21 Q. Who was it?

22 A. Oppidan.

23 Q. All right.

24 MR. BONHAM: Next slide, please.

15:53 25 By Mr. Bonham:

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1 Q. Next we're looking at E2246.

2 Are you familiar with this plan?

3 A. Yes, I am.

4 Q. And have PWA licensees built this in the Houston area?

15:53 5 A. Yes, they have.

6 Q. Approximately how many times?

7 A. Dozens of times.

8 Q. And what areas of town has this been built and marketed  
9 in?

15:54 10 A. Again, all in the inner city. This is a big project  
11 that was originally over near I-10. So, it's there and it's  
12 also real popular on the eastside, EaDo, that area.

13 Q. Did Urban Living ever order this plan?

14 A. Yes. It's off Polk Street. There's a large project on  
15:54 15 Polk Street.

16 Q. Did Urban Living ever order E2246 for a project known as  
17 EaDo Place?

18 A. No. No.

19 Q. So, they never paid for this to be used on EaDo Place?

15:54 20 A. No, they did not.

21 Q. Do you know who the developer of EaDo Place was?

22 A. Yes.

23 Q. And who was it?

24 A. Oppidan.

15:54 25 Q. All right. Now, we're on to E1171.

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1 Are you familiar with this plan?

2 A. Yes, I am.

3 Q. And approximately how many times have Preston Wood  
4 licensees built this in the Houston area?

15:54 5 A. I'd say dozens of times.

6 Q. What areas of town?

7 A. It's again inner city. Montrose, Heights, eastside.  
8 It's all in the inner city.

9 Q. Now, did Urban Living ever order this plan?

15:55 10 A. They did. They ordered it for Inker Street.

11 Q. For a project on Inker Street?

12 A. Yes. 5217 Inker Street.

13 Q. And did they ever order it for a project on Mount Vernon  
14 Street?

15:55 15 A. No.

16 Q. So, it was never paid for or reported on Mount Vernon?

17 A. No.

18 Q. Going back to the contract -- and I think we've covered  
19 this in the agreed facts -- but this contract had a one-year  
15:55 20 term. Correct?

21 A. Yes.

22 Q. And it wasn't renewed?

23 A. That's correct.

24 Q. So, looking at the last sentence where it says -- What's  
15:55 25 the last sentence of that first paragraph? Why was that put

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1 in?

2 A. Because, once the agreement was over, it was over and  
3 there could be no more use of our plans or our marketing  
4 plans or anything. It's over with.

15:56 5 Q. So, as of January of 2015, other than finishing  
6 buildings that were already under construction, they weren't  
7 supposed to do anything else?

8 A. Correct. It was finished, done.

9 Q. Okay. So, the contract has ended.

15:56 10 What happens next?

11 A. Many months later I get a call from a builder with  
12 Oppidan -- either a builder or superintendent with Oppidan,  
13 and he's asking if I can give him permission to -- a letter  
14 they can take to the City because he's lost his plans and  
15:56 15 the City requires that whoever's the copyright on the  
16 plans -- the permitted plans give permission.

17 MR. BONHAM: Let's bring up the next one.

18 By Mr. Bonham:

19 Q. This is a copy from Exhibit 104 from the permit set of  
15:57 20 plans for Nagle.

21 MR. BONHAM: And if you'd blow up the next one.

22 Q. This is in the lower left-hand corner.

23 Is this the Preston Wood --

24 A. Yes.

15:57 25 Q. -- indication of that?

*S. Wood - Cross by Mr. Strother*

1 A. That's why the City wanted a letter from us.

2 Q. So, the City called and said, 'We see this. We need  
3 Preston Wood's permission.'

4 What did you do next?

15:57 5 A. I was shocked.

6 Q. Why were you shocked?

7 A. Because Nagle was the one that they were not going to  
8 build.

9 Q. Okay.

15:57 10 MR. BONHAM: Pull up the next slide, please.

11 By Mr. Bonham:

12 Q. This is the one covered by the letter where they said,  
13 'We didn't even use this plan'?

14 A. 'We weren't going to build it.' And we refunded the  
15:57 15 money.

16 MR. BONHAM: Pass the witness.

17 MR. STROTHER: May I proceed, Your Honor?

18 THE COURT: Yes. Go right ahead.

19 CROSS-EXAMINATION

15:57 20 By Mr. Strother:

21 Q. Ms. Wood, good afternoon.

22 A. Hello.

23 Q. You understand that Urban Living is not a builder.  
24 Correct?

15:58 25 A. I know that he's been a real estate agent, yes.

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1 Q. Okay.

2 A. I don't know what else he does.

3 THE COURT: Who is "he"?

4 THE WITNESS: Vinod Ramani, Urban Living.

15:58 5 I'm not sure what other things he does.

6 By Mr. Strother:

7 Q. Okay. And my question is about the company Urban  
8 Living.

9 Have you ever dealt with them where they've  
15:58 10 actually acted as a builder of a building rather than  
11 someone facilitating and representing a builder?

12 A. I have not.

13 Q. Okay.

14 A. But, again, I don't know that he hasn't done it for  
15:58 15 someone else. I haven't.

16 Q. You're not familiar with any buildings that Urban Living  
17 has ever erected. Correct?

18 A. None. I don't know of them.

19 Q. So, are you the correct witness to ask about the  
15:58 20 250-dollar amount?

21 A. Yes.

22 Q. PWA is not suing for the \$250. Correct?

23 A. It may not be a good question for me. We're suing for  
24 what we're allowed to sue for per the law.

15:59 25 Q. Do you understand that you are suing for gross revenue

*S. Wood - Cross by Mr. Strother*

1 less deductible expenses?

2 A. Yes.

3 Q. Do you believe that 100 percent of that is due to PWA's  
4 plans?

15:59 5 MR. BONHAM: Objection, Your Honor. His burden of  
6 proof is to establish what portion is attributable to other  
7 factors. You know, what my client believes or not is not  
8 material --

9 THE COURT: Sustained to the form of the question.

15:59 10 MR. STROTHER: Okay.

11 By Mr. Strother:

12 Q. Do you disagree with my client's position that not all  
13 of the profits from the job are due to PWA's plans?

14 MR. BONHAM: Okay, Your Honor. Now we need to  
15:59 15 approach.

16 THE COURT: No. What? What?

17 MR. BONHAM: On the limine issue that we talked  
18 about this morning where he's getting into allocation  
19 issues --

15:59 20 THE COURT: Yeah. All right.

21 Ladies and gentlemen, we got into session at,  
22 best I can remember -- what, Ellen? -- about 2:20 and it's  
23 now almost 4 o'clock.

24 I need to deal with this matter. I need to  
16:00 25 deal with one other matter. So, we're going to take a



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1 break. I need the attorneys here. We'll get back in right  
2 about 4:15 -- okay? -- in about 18 minutes. We'll see you  
3 then.

4 (Jury not present)

16:00 5 THE COURT: Okay. Be seated.

6 Let the record reflect the jury is now out of  
7 the room.

8 I understand that Mr. Ramani is not here, and  
9 I also understand the history of this case. He didn't show  
16:00 10 up to a deposition, had to be ordered to come down to the  
11 courthouse to take a deposition, and he's not here.

12 I also note in the joint pretrial order he's  
13 listed as a possible Plaintiff's witness. Okay?

14 Mr. Strother --

16:01 15 MR. BONHAM: Your Honor, we --

16 MR. ZUMMO: I'd like to -- We've agreed that we  
17 are not asking for him to testify adversely with  
18 Mr. Strother --

19 THE COURT: Well, where is he?

16:01 20 MR. STROTHER: I would love to speak to that, Your  
21 Honor.

22 And thank you to my opposing counsel.

23 THE COURT: Because he's not here and there's been  
24 a problem with him early on in this case. I don't put up  
16:01 25 with that.

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1 MR. STROTHER: Your Honor, I understand. And,  
2 respectfully, we went through this with Judge Atlas.

3 Mr. Ramani had a number of personal problems  
4 and was prepared to address those with Judge Atlas. I ask  
16:01 5 for the mercy of the Court in trying to --

6 THE COURT: What kind of personal problems?

7 MR. STROTHER: Your Honor, they're somewhat of a  
8 matter of public record, but a very messy divorce involving  
9 a lot of extraneous factors that --

16:01 10 THE COURT: All right. But where is he? This is  
11 his case. He's getting sued.

12 MR. STROTHER: Yes, Your Honor.

13 I am not deaf or blind to your outrage, and I  
14 am apologizing for Mr. Ramani. I need to address one  
16:01 15 elephant in the room.

16 I spoke to Mr. Ramani about whether he could  
17 leave or not. I asked my opposing counsel whether they were  
18 okay with it. They said they were okay. And, so, I  
19 explained to him the pros and cons and he left with my  
16:02 20 consent.

21 THE COURT: Well, let me ask you this. With the  
22 history of this case, what's the Plaintiff's position?

23 MR. ZUMMO: Your Honor, I want to correct just one  
24 thing.

16:02 25 The time that Mr. Ramani didn't show up was

*S. Wood - Cross by Mr. Strother*

1 for the first scheduled mediation --

2 THE COURT: It was mediation. I'm sorry.

3 Mediation.

4 MR. ZUMMO: -- not deposition. Otherwise, we don't

16:02 5 need him. We've made a decision that we aren't going to  
6 call him adversely. It is unprecedented, in my experience,  
7 for the defendant in a case to just not be here or to have a  
8 company rep here.

9 But that's -- As far as whether there's any  
16:02 10 action to be taken, that's entirely up to Your Honor. It's  
11 nothing something that the Plaintiff is asking for.

12 THE COURT: All right. Come on up. Approach the  
13 bench on this one.

14 (At the bench)

16:02 15 THE COURT: If you want what goes on here sealed at  
16 the end of the case, you discuss it with the court reporter.  
17 It's fine with me.

18 What's the problem? Where the hell is he?

19 MR. STROTHER: There is no problem today. He went  
16:03 20 to tend to Urban Living business rather than be here.

21 THE COURT: You tell him to get his butt here and  
22 to keep it here.

23 MR. STROTHER: I will, Your Honor.

24 And, Your Honor, please --

16:03 25 THE COURT: I'm not jumping anybody. I'm just

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1 saying, because of the history of this case and that he did  
2 show up on that -- okay? -- that -- I'm ordering him here.

3 MR. STROTHER: I will --

4 THE COURT: And if he doesn't show up -- it's not  
16:03 5 like a lot of other judges -- I'll go and have somebody get  
6 him.

7 MR. STROTHER: I understand.

8 THE COURT: All right?

9 MR. STROTHER: And I want to take responsibility.

16:03 10 THE COURT: Don't worry about it. I'll just say it  
11 was me doing it, not you. Okay?

12 MR. STROTHER: Yes, Your Honor.

13 THE COURT: I want him here. It's his case.

14 All right. Let's go and let's talk about  
16:03 15 this. Here you go.

16 (In open court)

17 THE COURT: Let's talk about -- What are we looking  
18 at?

19 MR. BONHAM: This is what we talked about this  
16:03 20 morning, Your Honor, about under 504(b). As we indicated,  
21 we asked Interrogatory -- and I will hand you a copy of it.  
22 This is Mr. Cameron's answer -- excuse me -- Cameron  
23 Architects' answer and Urban Living's answers to  
24 interrogatories.

16:04 25 Our interrogatories asked for anything they

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1 were going to make any claim under 504(b) for --

2 THE COURT: What is 504(b)?

3 MR. BONHAM: 504(b) is under the copyright -- This  
4 is how you do profits.

16:04 5 THE COURT: Go on.

6 MR. BONHAM: Okay. And, as the Fifth Circuit  
7 explained in the *Hewlett* case, the question of allocation of  
8 profits is contrary to what Mr. Strother told the Court this  
9 morning under 504(b).

16:05 10 It's in the statute. That's why we asked this  
11 interrogatory so that we're not ambushed at trial.

12 THE COURT: Let me just read this.

13 MR. BONHAM: Sure.

14 THE COURT: Okay. Now, go ahead.

16:05 15 MR. BONHAM: Your Honor, again, the question of  
16 what part of profits are allocable to other factors is  
17 covered by 504(b). Our interrogatory asked for everything  
18 they were going to claim under 504(b).

19 We brought it up with Judge Atlas, that their  
16:06 20 answers appeared to be deficient and we wanted them held to  
21 their answers.

22 THE COURT: What do you think he's getting into?

23 MR. BONHAM: He's trying to say not all the profits  
24 are due to the infringement. He's trying to get into  
16:06 25 factors other than the infringement even though they didn't

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1 raise that in their interrogatory answer.

2 THE COURT: What's the response?

3 MR. STROTHER: Your Honor, we produced documents  
4 that go directly toward the argument I'm making.

16:06 5 If I can ask for the Court's indulgence to  
6 make that argument in 60 seconds.

7 THE COURT: Go on.

8 MR. STROTHER: After the jury determines what the  
9 profit is, they're going to be asked what percentage is due  
16:06 10 to factors other than infringement. And what the jury will  
11 have in front of them -- it's already in evidence and it was  
12 produced prior to trial.

13 And their response to discovery requests are  
14 the sales prices of the various properties, the amount of  
16:07 15 commission earned and, of course, the \$250 that would  
16 normally be paid.

17 The logical conclusion is that, with a pie  
18 wedge that small, there are other factors at hand. So, with  
19 regard to the interrogatory response, the way it is worded  
16:07 20 does not seem to seek the non-expense-related issues. It  
21 uses four, I believe, nouns: apportionment, allocation,  
22 deduction or expense.

23 And I understand Plaintiff's position here is  
24 that something like land -- perhaps that should fall into  
16:07 25 one of those.

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1 We are not asking that it be deducted as an  
2 expense at all. We're not asking that the cost of land be  
3 deducted. We're not asking that the cost of construction  
4 materials be deducted. I don't believe that that  
16:07 5 information would be responsive to that interrogatory.

6 To allow them to seek the \$25,000 in net  
7 profit when this would have been a 250-dollar use is  
8 illogical.

9 And, so, to keep out the evidence, which is  
16:08 10 just me soliciting -- eliciting testimony on the subject --  
11 to keep it out would lead to a particularly absurd result  
12 and would render that question meaningless.

13 MR. BONHAM: Your Honor, as far as rendering it  
14 meaningless, that is exactly what the Fifth Circuit rejected  
16:08 15 in the *Hewlett* case.

16 In the *Hewlett* case, they were awarded over  
17 \$1.3 million in infringer profits with zero allocation  
18 because they hadn't produced any evidence on the 504(b).

19 THE COURT: Well, he said he's produced it and it's  
16:08 20 already in evidence -- I mean, that it's already been  
21 produced --

22 MR. STROTHER: Yes, Your Honor.

23 THE COURT: -- aside from the responses to these  
24 interrogatories.

16:08 25 MR. BONHAM: Well, Your Honor, we asked a

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1 contention interrogatory that said, 'What is it you  
2 contend?' The case law is that you can't just simply say,  
3 'We have produced documents. It's in there somewhere.'

4 They have to tell us what they contend, and  
16:09 5 they have never raised this argument. Had they raised this  
6 argument, we could have taken discovery on it. We are now  
7 being unfairly surprised at trial with it.

8 MR. STROTHER: Your Honor, with respect to  
9 Mr. Bonham, we met face to face in July and discussed me  
16:09 10 putting in the evidence of \$250, which they opposed.

11 Mr. Bonham asked me, "Why do you want that in  
12 there?" And I explained the argument. And he gave me a  
13 quizzical look.

14 They are laying behind the log to wait until  
16:09 15 today to try to keep out this very simple and logical  
16 argument.

17 THE COURT: Which is?

18 MR. STROTHER: Which is that there are other items  
19 that form a basis for the profit being earned by Urban  
16:09 20 Living.

21 The *Penhollow* case, the *Hewlett Custom Home*  
22 *Design*, is not a real estate broker case. It's a builder  
23 case in which the builder is trying to deduct those  
24 expenses. This is a different argument, Your Honor.

16:09 25 MR. BONHAM: No, Your Honor. *Hewlett* -- The



*S. Wood - Cross by Mr. Strother*

1     *Hewlett* -- I know because I tried that case in front of  
2     Judge Werlein.

3                     The gross revenues were stipulated. The  
4     expenses were stipulated. The only question the jury was  
16:10 5     asked on this point was, "What percentage are due to factors  
6     other than the infringement?" And the jury came in and  
7     said: Zero, zero, zero, zero, zero, zero, zero.

8                     On appeal, Frontier went to the Fifth Circuit  
9     and said exactly what Mr. Strother was saying. 'This is  
16:10 10    illogical. It can't possibly be that you can recover a  
11    million three for plans that could have been licensed for a  
12    few thousand bucks.'

13                    And the Fifth Circuit said, 'Sorry. It is  
14    your burden under 504(b) to produce that evidence.'

16:10 15                    Mr. Strother --

16                    THE COURT: Well, they're producing it now. They  
17    want to produce it now. Right?

18                    MR. BONHAM: Yeah. We've asked for it in discovery  
19    and we didn't get it.

16:10 20                    MR. STROTHER: Your Honor, may I respond to that?

21                    THE COURT: Sure.

22                    MR. STROTHER: By the way, I like Mr. Bonham. And,  
23    so --

24                    MR. BONHAM: And I like you, Mr. Strother.

16:10 25                    MR. STROTHER: But I want to go over there and say,

*S. Wood - Cross by Mr. Strother*

1 "No. You're misreading this."

2 At the bottom of -- And I understand it's his  
3 case.

4 THE COURT: Where is it?

16:11 5 MR. STROTHER: The bottom of the first page and the  
6 top of the second page, the Court explains --

7 THE COURT: Go ahead.

8 MR. STROTHER: -- that the builder, Frontier,  
9 asserted that the trial court --

16:11 10 THE COURT: Hold it. Hold it.

11 Yeah. Okay. Frontier.

12 MR. STROTHER: Frontier asserts that the trial  
13 court was required to apportion profit and, therefore,  
14 reduce damages based only on Frontier's mere generalized  
16:11 15 testimony that certain factors, other than the plans,  
16 affected builder's profit.

17 My reading of this suggests that Frontier did  
18 not attempt to put on evidence. And Mr. Bonham may say that  
19 they did and there was some procedural quirk that prevented  
16:11 20 them from doing so, but that's not in this opinion. This  
21 opinion suggests that Frontier did not put on that evidence.

22 I am attempting to not only -- The evidence is  
23 already there, Your Honor. The sales price, the commission,  
24 the amount for that pie wedge, is already there. The  
16:11 25 evidence is there.

*S. Wood - Cross by Mr. Strother*

1 I am being -- He's attempting to limit the  
2 argument by suggesting that a lengthy interrogatory that  
3 doesn't directly peg this question somehow prevents me from  
4 making the argument that the evidence in front of the jury  
16:12 5 logically suggests.

6 MR. BONHAM: Again, on this one, this is something  
7 that we've talked about since the very first 26(f)  
8 conference in this case, in which I said, "I'm going to need  
9 everything under 504(b). That is always where we run into  
16:12 10 trouble on these cases because people don't produce all the  
11 backup, and we need to get it all in."

12 And I said I'm --

13 THE COURT: So, what's wrong with the question  
14 specifically?

16:12 15 MR. BONHAM: We have asked them in an  
16 interrogatory, 'Give us anything you contend' -- 'What are  
17 your theories for why you get any sort of deduction or  
18 allocation or expense under 504(b)?' They did not make this  
19 argument.

16:12 20 Now he's trying to get in testimony about an  
21 argument that he did not disclose to us in discovery.

22 THE COURT: Well, where did you disclose it?

23 MR. STROTHER: The argument? In an informal  
24 conversation. That interrogatory --

16:13 25 THE COURT: And you say there's evidence in the

*S. Wood - Cross by Mr. Strother*

1 record?

2 MR. STROTHER: Absolutely, Your Honor. The  
3 evidence is the sales price, which is -- It's in evidence  
4 multiple places. There are closing statements in evidence.  
16:13 5 There are the financial records that are in evidence. In  
6 fact, I think the parties --

7 THE COURT: Let's assume all of that's in evidence.

8 Mr. Bonham, is it your position that he's  
9 required to specifically target it?

16:13 10 MR. BONHAM: Specifically --

11 THE COURT: -- target it.

12 MR. BONHAM: I believe he's required to tell me  
13 what his theory on allocations are.

14 I'll tell you one thing that's not in the  
16:13 15 evidence and it's never been disclosed. He can say that's  
16 the sales price. But he wants to get into what the price of  
17 the land was or what the costs of construction were.  
18 There's been no discovery on that.

19 MR. STROTHER: Yes and no. Let's not forget that  
16:13 20 the chief defendant in this case was originally the builder.  
21 The builder was sued. The builder participated in  
22 discovery.

23 And I don't want to run afoul of talking about  
24 settlement, Your Honor, but -- so, stop me if I'm going  
16:14 25 somewhere I shouldn't. I think outside the presence of the

*S. Wood - Cross by Mr. Strother*

1 jury it should be okay.

2 THE COURT: Yeah.

3 MR. STROTHER: There's been a significant  
4 settlement where the Plaintiffs received money from the  
16:14 5 Defendant builder.

6 THE COURT: Do you think he's double-dating --

7 MR. STROTHER: No.

8 THE COURT: -- I mean, double-dipping?

9 MR. STROTHER: I don't. I don't. I don't fault  
16:14 10 them for that. What I fault them for is they're not here.  
11 And I've subpoenaed the builder's representative to come  
12 testify on this fact.

13 MR. BONHAM: And we'll object to that.

14 MR. STROTHER: They'll object to that.

16:14 15 But we don't possess that information, and we  
16 don't possess the information about what the builder spent.  
17 By the time the interrogatory was answered, we -- Actually,  
18 they may have been out of the case in January. I can't  
19 recall.

16:14 20 MR. BONHAM: The builder was -- Oppidan was out of  
21 this case last summer. And they only produced a little bit  
22 of discovery on Nagle. There's been no discovery on any of  
23 the other projects at issue in this case.

24 MR. STROTHER: But I know that Plaintiff has that  
16:15 25 information because I know they produced -- Outside of this

*S. Wood - Cross by Mr. Strother*

1 case, this is a really good, clever argument that will cut  
2 my clients off at the knees. I don't think that that  
3 interrogatory should be read to require me to make that  
4 argument. It asks for specific information and  
16:15 5 calculations, which I provided.

6 MR. BONHAM: No. He's not provided them. We asked  
7 for, "What are your theories, including allocations?" Now  
8 he's trying to come in -- There is nothing in the  
9 interrogatory answer that even hints at allocations.

16:15 10 THE COURT: It says "support each element of  
11 expense, deduction, allocation or apportionment." Correct?

12 MR. BONHAM: Yes, it does.

13 MR. STROTHER: And my reading of those four words  
14 doesn't get to this argument, Your Honor.

16:15 15 THE COURT: Well, he's got a case. What's your  
16 best case where this doesn't apply?

17 MR. STROTHER: Where what doesn't apply? I'm not  
18 sure I understand the Court's question.

19 THE COURT: Well, in other words, where you're  
16:15 20 trying to get -- what you have told him is sufficient to  
21 satisfy the statute even though no answer to the  
22 interrogatory.

23 MR. STROTHER: The case would get to -- I'm not  
24 sure that there would be a -- By the way, this case doesn't  
16:16 25 discuss discovery at all. So, this interrogatory

*S. Wood - Cross by Mr. Strother*

1 question --

2 THE COURT: I understand that.

3 MR. STROTHER: I don't have a case either on  
4 whether that interrogatory question should be interpreted  
16:16 5 the way Mr. Bonham wants to interpret it.

6 MR. BONHAM: I don't know how else you can ask a  
7 504(b) question to say, 'Tell us what you're going to say at  
8 trial or what your positions are' other than the way we've  
9 done it. It's as broad as I could make it.

16:16 10 MR. STROTHER: And "broad" is bad in this  
11 situation. I could think of a very easy way, which is,  
12 'What factors are you going to argue profit is attributable  
13 to factors other than infringement?'

14 It's a one-sentence interrogatory, and there's  
16:16 15 nothing about the sentence I just said that is clear in that  
16 interrogatory. To me, it didn't appear to even target that.  
17 I didn't even have to object.

18 THE COURT: Okay. Anything else?

19 MR. BONHAM: I think that's it, Your Honor.

16:17 20 THE COURT: All right. Hang on.

21 All right. We're going to take a break. I'm  
22 going to sit back and I'm going to look at some of this  
23 stuff.

24 What time did we say the jury would be back?

16:17 25 At 4:15?

*S. Wood - Cross by Mr. Strother*

1 MR. ZUMMO: Yes, Your Honor.

2 THE COURT: Okay. I do this from time to time.

3 I'm going to stick my head in the jury room, say we -- you  
4 know, we just got through, the clock was on, and we're going  
16:17 5 to take until 4:30.

6 MR. STROTHER: Your Honor, before you do that, may  
7 I say one more thing --

8 THE COURT: Sure.

9 MR. STROTHER: -- about Mr. Ramani's absence on my  
16:17 10 clock?

11 I just feel very badly, as a counselor, that I  
12 let my client go and I know, when he comes in here, the  
13 Court will have things to say to him.

14 THE COURT: I'm not going to say a thing to him.  
16:18 15 You tell him I want him here.

16 MR. STROTHER: He's on his way, Your Honor.

17 THE COURT: Oh. You didn't have to bring him back.  
18 I said tomorrow --

19 MR. STROTHER: Okay. He's on his way.

16:18 20 THE COURT: -- that I want him here.

21 All right. You can talk to him when he comes  
22 in.

23 Off the record.

24 (Off-the-record discussion)

16:19 25 (Brief recess)



*S. Wood - Cross by Mr. Strother*

1 (Jury not present)

2 THE COURT: I've got the response and the ruling on  
3 the Plaintiff's objection. I had it -- dictated it out.

4 Plaintiff's objection to the Defendants' line  
16:36 5 of questioning is overruled at this time. The Defendants  
6 will be permitted to present evidence and testimony  
7 regarding other factors attributable to profits that are in  
8 evidence already.

9 Argument as to what the jury is to consider  
16:36 10 relative to elements of profits attributable to factors  
11 other than copyrighted work may be reurged at the time of  
12 the charge conference.

13 Let's call the jury in, please.

14 (Jury present)

16:37 15 THE COURT: Be seated.

16 Counsel, go right ahead.

17 MR. STROTHER: Thank you, Your Honor.

18 By Mr. Strother:

19 Q. Ms. Wood, I'm going to wrap this up.

16:37 20 You understand that, at the end of trial, the  
21 jury is going to be asked to assign a percentage to portions  
22 of the profits that are due to factors other than  
23 infringement?

24 THE COURT: Let's assume that's what will happen.

16:37 25 Okay?

*S. Wood - Cross by Mr. Strother*

1 THE WITNESS: Okay.

2 THE COURT: All right.

3 By Mr. Strother:

4 Q. For the purposes of my question, you understand that  
16:37 5 that's a question the jury may be asked?

6 A. Yes.

7 Q. Okay. Does PWA contend that that percentage should be  
8 zero, that all of the profits earned by Urban Living were  
9 due to the -- due to Preston Wood's plans?

10 MR. BONHAM: Your Honor, objection. It calls for  
11 speculation. That's going to depend on what -- the evidence  
12 that comes in.

13 THE COURT: That's sustained to the form of the  
14 question. Sustained.

15 MR. STROTHER: Thank you, Your Honor.

16 THE COURT: In other words, ladies and gentlemen,  
17 you will get instructions at the end of the trial and there  
18 may be certain elements that you will consider. There may  
19 be other elements that you won't consider. It may be  
16:38 20 listed. It may not. It may be subject not to direct  
21 instruction, but it may be something subject to being  
22 objected to during summation.

23 But, at this point, that's basically where it  
24 is. Okay? I'm allowing a line of questioning to go forward  
16:38 25 at this time.

1 By Mr. Strother:

2 Q. What portion of the sales price of the property do you  
3 believe was due to factors other than infringement?

4 MR. BONHAM: Your Honor, objection. Sales price is  
16:38 5 not profits. Object to the form of the question.

6 THE COURT: Sustained.

7 Q. What portion of Urban Living's --

8 THE COURT: Okay. It's too broad. Narrow it down  
9 and don't -- and, of course, you're not; I'm not saying this  
16:39 10 as a criticism -- infringe on what the law is or is not.

11 I'll give you the law as to whether or not  
12 these elements may be considered. All right? With that as  
13 a background -- And, of course, a lot of it's technical. A  
14 lot of it's whatever is in evidence. She's not an attorney  
16:39 15 and she may not know the law itself. Probably not.

16 But within those parameters you can proceed on  
17 that line of questioning.

18 MR. STROTHER: Your Honor, thank you for the  
19 guidance.

16:39 20 At this time I'll pass the witness.

21 THE COURT: Okay.

22 MR. BONHAM: Nothing further, Your Honor.

23 THE COURT: Please step down. Well, it was very  
24 profitable, that additional half-hour that we had. Thank  
16:39 25 you so much.

*Cameron - Cross by Mr. Bonham*

1 Call your next witness.

2 MR. BONHAM: Thank you, Your Honor.

3 Plaintiff calls Stephen Cameron.

4 **STEPHEN CAMERON, THE DEFENDANT, SWORN**

16:39 5 CROSS-EXAMINATION

6 By Mr. Bonham:

7 Q. Please state your name for the record.

8 A. Stephen Cameron.

9 Q. And, Mr. Cameron, you're the president of Cameron

16:40 10 Architects?

11 A. Yes, sir.

12 Q. And you know what a stock plan is, don't you?

13 A. Yes.

14 Q. And a stock plan -- When you use a stock plan, you don't

16:40 15 have to go through the initial schematic and design

16 development stages of designing a plan, do you?

17 A. Correct.

18 Q. And that saves you time and money, doesn't it?

19 A. Sometimes.

16:40 20 Q. You don't have to create as many details, for example.

21 A. Okay.

22 Q. Is that correct?

23 A. Depends on the changes you make to each one of them.

24 MR. BONHAM: Can you bring up Exhibit 102.

16:41 25 THE COURT: Now you want your computer on. Right?

*Cameron - Cross by Mr. Bonham*

1 MR. BONHAM: We've got it.

2 THE COURT: Oh. You've got it? Okay.

3 By Mr. Bonham:

4 Q. Mr. Cameron, I'm going to hand you a notebook that  
16:41 5 contains paper copies of any exhibits that I may refer to  
6 you --

7 A. Okay.

8 Q. -- and you can refer to that.

9 A. Thank you.

16:41 10 THE COURT: All right. I'm going to turn this  
11 light on. If it bothers you, turn it off. But it'll give  
12 you a little bit of light.

13 By Mr. Bonham:

14 Q. And, again, portions of these will have blown up on the  
16:41 15 screen to make it a little easier for everyone to do it.

16 But directing your attention to Exhibit P-102,  
17 this is your contract for the Mount Vernon project, isn't  
18 it?

19 A. I'm not sure. It doesn't have the address on it.

16:42 20 THE COURT: Well, let's see. Can the parties  
21 agree. Is it or is it not?

22 MR. BONHAM: Yes.

23 THE COURT: Okay.

24 MR. BONHAM: It's in evidence.

16:42 25 THE COURT: Mr. Strother.

*Cameron - Cross by Mr. Bonham*

1 MR. STROTHER: I believe that is.

2 THE COURT: Do you want to show him -- You got an  
3 original there?

4 MR. STROTHER: Can I see the --

16:42 5 THE COURT: You will have all the exhibits, by the  
6 way, back in the jury room with you.

7 THE WITNESS: Here it is. I found it.

8 THE COURT: Okay. Then, it's by agreement. Yes.  
9 The answer is "Yes".

16:42 10 MR. BONHAM: The answer is "Yes".

11 By Mr. Bonham:

12 Q. If you'd go back to the very first page. If you'd look  
13 at the top of it. The top indicates that it is --

14 THE COURT: Well, you got your light -- you got  
16:43 15 your laser pointer? Because I'm having trouble following  
16 it. It's very light.

17 Q. Looking at -- This is the top of the first page of  
18 Exhibit 102; is it not?

19 A. Yes.

16:43 20 Q. And it indicates that it is -- The letterhead says  
21 "Urban Project Management in Partnership with Cameron  
22 Architects", doesn't it?

23 A. We're not partners.

24 Q. But that's what it says?

16:43 25 THE COURT: Is that what it says?

Cameron - Cross by Mr. Bonham

1 THE WITNESS: It's what it says.

2 By Mr. Bonham:

3 Q. That's what it says.

4 And you used this on dozens of proposals and  
16:43 5 contracts. Correct?

6 A. Urban Management did.

7 Q. Well, you knew about them, didn't you?

8 A. I get them eventually when I get the plans.

9 Q. The question, sir, was: You knew that this was being  
16:43 10 used on dozens of proposals, wasn't it?

11 A. Yes.

12 Q. And, yet, you're saying that you weren't in partnership  
13 with them?

14 A. I was never in partnership.

16:44 15 Q. So, this wasn't -- this statement that "Urban Project  
16 Management in Partnership with Cameron Architects" was not  
17 true, was it?

18 A. Right.

19 Q. And you didn't do anything to tell the people these went  
16:44 20 to that you weren't in partnership with Cameron Architects?

21 MR. STROTHER: Your Honor, I object to this as  
22 being irrelevant.

23 THE COURT: What's the relevance, counsel?

24 MR. BONHAM: The relevance of this is he's willing  
16:44 25 to tell people things that aren't true, things related to

*Cameron - Cross by Mr. Bonham*

1 this case.

2 MR. STROTHER: I have to respond to that. That's  
3 not relevant to the matters --

4 THE COURT: Ladies and gentlemen, I'm going to rule  
16:44 5 that it goes to the weight of -- whatever you desire to give  
6 to it and not to the basic admissibility. It's in evidence.  
7 It says what it says. But give it whatever weight you think  
8 it deserves.

9 Go on.

16:44 10 MR. BONHAM: Okay.

11 By Mr. Bonham:

12 Q. Okay.

13 MR. BONHAM: Go to the next slide.

14 Q. This contract indicated that it was for Stock Plan  
16:44 15 E1171. Correct?

16 A. Yes.

17 Q. All right.

18 MR. BONHAM: Next slide.

19 Q. And this was the stock plan in question, wasn't it?

16:45 20 A. Yes.

21 Q. From Preston Wood & Associates?

22 A. Right.

23 Q. All right.

24 MR. BONHAM: Next slide.

16:45 25 By Mr. Bonham:



*Cameron - Cross by Mr. Bonham*

1 Q. And it had this copyright notice on it, didn't it?

2 A. Yes.

3 Q. And Urban Living sent you Preston Wood's CAD files for  
4 it. Right?

16:45 5 A. Yes.

6 Q. And you copied those onto your computer?

7 A. They're on the computer.

8 Q. Literally copied them. Correct?

9 A. "Downloaded" would be more....

16:45 10 Q. So --

11 THE COURT: He downloaded. He downloaded them.

12 Q. Downloaded and made a copy on your hard drive. Right?

13 A. Yes.

14 Q. And then you took those and made changes to them.

16:45 15 Right?

16 A. Possibly.

17 Q. Do you have any doubt that that's what you did?

18 A. We changed a lot of them, and some we didn't have to  
19 change at all.

16:45 20 Q. How about this one?

21 A. A few minor....

22 Q. Do you recall having your deposition taken in this case?

23 A. Yes.

24 THE COURT: By the way, a deposition is testimony  
16:46 25 that's given prior to trial. There's a court reporter

*Cameron - Cross by Mr. Bonham*

1 present. And they can discuss various matters relative to  
2 this case under oath.

3 MR. BONHAM: If you'd pull up Page 38, Line 20.

4 By Mr. Bonham:

16:46 5 Q. Do you recall me asking you -- This is Page 38, Line 20.

6 THE COURT: Are you calling that up?

7 MR. BONHAM: Yes, we are.

8 THE COURT: All right. Are you going to enlarge  
9 that, if you can?

16:46 10 MR. BONHAM: Yeah.

11 THE COURT: All right. Go on.

12 By Mr. Bonham:

13 Q. So, didn't I ask you: "So, let me see if I've got this  
14 right. Cameron Architects took PWA -- or Preston Wood's CAD  
16:46 15 file" --

16 THE COURT: Slow down. By the way, in all my  
17 years, people have a tendency to speed up when they read.  
18 Okay? So, it's not unusual.

19 Yeah. Go on. Continue, sir.

16:47 20 Q. -- "for the plan shown in Exhibit 7, made modifications  
21 to it, and that's what became shown in Exhibit 8. Is that  
22 correct?"

23 And you answered: "Yes."

24 A. Okay.

16:47 25 Q. And we were talking about this particular plan, weren't

*Cameron - Cross by Mr. Bonham*

1 we?

2 A. Yes.

3 MR. BONHAM: Go back to the last slide.

4 By Mr. Bonham:

16:47 5 Q. Okay. Now, Plaintiff 115 -- and you've got a copy of it  
6 in your book -- that's the plan that you generated from  
7 Preston Wood's CAD files. Right?

8 A. Yes.

9 Q. Okay.

16:47 10 MR. BONHAM: If you'd blow up the lower corner.

11 Q. And that's the lower right-hand corner and lower  
12 left-hand corners of the first page of Exhibit P-115, aren't  
13 they?

14 A. Yes.

16:48 15 Q. And you actually put Preston Wood's seal on those plans,  
16 didn't you?

17 A. Yes.

18 Q. And, if you look at the date, it indicates the issue  
19 date of 13 August 2012.

16:48 20 Was that your issue date?

21 A. No.

22 Q. That was from the Preston Wood plan, wasn't it?

23 A. Right.

24 Q. And, again, the plan number says it's E1171, doesn't it?

16:48 25 A. Right.

Cameron - Cross by Mr. Bonham

1 MR. BONHAM: Next slide, please.

2 By Mr. Bonham:

3 Q. Now, these are the front elevations of E1171 and  
4 Mount Vernon, aren't they?

16:48 5 A. Yes.

6 Q. And you copied the elevation for your plan on  
7 Mount Vernon from 1171, didn't you?

8 A. It's their stock plan. Yes.

9 MR. BONHAM: Next slide, please.

16:48 10 Q. Going back to the contract, this contract was between  
11 Cameron Architects and Rajesh Bindal. Correct?

12 A. Yes.

13 Q. Not between Urban Living and Cameron Architects. Right?

14 A. Urban Living's the one doing the proposals.

16:49 15 Q. Well, but this agreement -- If you look at the third  
16 page of 102, isn't it between owner and architect? Isn't it  
17 between Rajesh Bindal and Cameron Architects?

18 A. Right.

19 Q. Which is not Urban Living, is it?

16:49 20 A. No.

21 MR. BONHAM: Go to the next slide, Kayla.

22 Q. And under this contract Mr. Bindal promised to pay you  
23 \$6,879, didn't he?

24 A. Yes.

16:49 25 Q. And you never released him from that obligation, did

Cameron - Cross by Mr. Bonham

1 you?

2 A. We had a lawsuit. It kind of did.

3 Q. Sir, my question is: Did you ever release Rajesh Bindal  
4 from that obligation?

16:50 5 A. Technically, no.

6 Q. Well, you either did or you didn't.

7 Did you release him --

8 A. I don't --

9 Q. -- or not?

16:50 10 A. I don't know him.

11 Q. Do you remember being deposed about this in your case?

12 A. Yes.

13 Q. Go to 41, Line 7 -- 7 to 12. Okay. Here we go.

14 And I asked you: "All right. So, in fact,

16:51 15 Rajesh Bindal promised to pay you; did he not?

16 "Answer: Yes.

17 "Question: Okay. Was this -- Did you ever  
18 release him from this obligation?

19 "Answer: Not me. No."

16:51 20 A. Right.

21 Q. That's what you testified to?

22 A. Okay. Yes.

23 MR. BONHAM: Now, if you'd go to Exhibit 102,  
24 Page 7, please.

16:51 25 By Mr. Bonham:

*Cameron - Cross by Mr. Bonham*

1 Q. Now, this is from your contract, Page 7 of Exhibit 102,  
2 isn't it?

3 A. Yes.

4 Q. And under your contract with Mr. Bindal, you said that  
16:52 5 you were the owner of the copyrights along with any  
6 consultants you may have hired. Correct?

7 A. Yes.

8 Q. That's what your contract said with Mr. Bindal?

9 A. Okay.

16:52 10 Q. All right. You also --

11 MR. BONHAM: If you'd go to the next slide.

12 By Mr. Bonham:

13 Q. You also included the Preston Wood contract with Urban  
14 Living as an attachment to your contract with Mr. Bindal,  
16:52 15 didn't you?

16 A. Again, not personally. I'm not doing the proposals.  
17 Urban Management is.

18 Q. But this was the contract between Cameron Architects and  
19 Rajesh Bindal?

16:52 20 A. Correct.

21 Q. And it attached the Preston Wood contract as an  
22 attachment to it.

23 A. Okay.

24 Q. Correct?

16:53 25 A. Yes.

Cameron - Cross by Mr. Bonham

1 Q. It was an attachment to the contract between your  
2 company and Rajesh Bindal?

3 A. Yes.

4 Q. Now --

16:53 5 MR. BONHAM: If you'd go to the next slide, please.

6 By Mr. Bonham:

7 Q. That included Section 2 of that agreement, didn't it?

8 A. Yes.

9 Q. And that included the provision that indicated that an  
16:53 10 outside draftsman, designer, engineer or architect could  
11 modify the work so long as they first execute and send to  
12 PWA an acknowledgement, agreements and form attached as  
13 Exhibit B.

14 That was attached to your contract, wasn't it?

16:53 15 A. Yes.

16 Q. And you never did that. You never sent Preston Wood a  
17 signed Exhibit B, did you?

18 A. No.

19 Q. And you never assigned any of your copyrights to Preston  
16:53 20 Wood?

21 A. No.

22 Q. And you never sent any copies of modified plans to  
23 Preston Wood, did you?

24 A. No.

16:54 25 MR. BONHAM: Let's go to the next slide, 93. Go to

Cameron - Cross by Mr. Bonham

1 the next slide.

2 By Mr. Bonham:

3 Q. Now, this is your contract for the Nagle agreement; is  
4 it not?

16:54 5 A. Yes.

6 Q. All right. And, again, it also contains --

7 MR. BONHAM: Next slide, please.

8 Q. It also contains this statement that you're in  
9 partnership with Urban Project Management, doesn't it?

16:54 10 A. Yes.

11 Q. Which is not true?

12 A. Correct.

13 Q. Now, this contract was with Oppidan Homes, wasn't it --

14 A. Yes.

16:54 15 MR. BONHAM: Next slide, please.

16 Q. -- as shown on this page on the screen?

17 Now, you also had other projects with Oppidan  
18 Homes, didn't you?

19 A. Yes.

16:55 20 Q. And Museum Terrace was one of them?

21 A. No.

22 Q. 1415 Blodgett?

23 A. Yes. I think -- 1415?

24 Q. 1415 -- Well, it'd be a series around there.

16:55 25 A. Series around there, yes. I know there was one on



Cameron - Cross by Mr. Bonham

1 Blodgett. I'm not sure who it was, but....

2 Q. You remember doing a project for Oppidan on Blodgett  
3 Street?

4 A. Yes.

16:55 5 Q. And you also did one called Clark Street Landing?

6 A. Yes.

7 Q. And you did another one called 1818 Webster?

8 A. Yes.

9 Q. And those were all plans that were -- where Urban Living  
16:55 10 sent you Preston Wood stock plans. Right?

11 A. Right.

12 Q. And this is for Oppidan Homes?

13 A. Yes.

14 Q. Going back to Exhibit 93.

16:56 15 MR. BONHAM: Next slide, please.

16 By Mr. Bonham:

17 Q. And, again, it was for stock plan -- It says E -- The  
18 problem is I can't see it either.

19 It's for D5-214. Correct?

16:56 20 A. Yes.

21 Q. That was the Preston Wood stock plan. Right?

22 A. Yes.

23 MR. BONHAM: Next slide.

24 Q. And under this agreement Oppidan promised to pay  
16:56 25 \$22,900, didn't it?

*Cameron - Cross by Mr. Bonham*

1 A. Yes.

2 Q. And you've never released them from their obligation to  
3 pay you, have you?

4 A. Yes.

16:56 5 Q. You have released them?

6 A. The lawsuit did.

7 Q. My question, sir, is: Have you released them?

8 A. I have not released them.

9 Q. You have not released them. Okay.

16:56 10 MR. BONHAM: Next slide, please.

11 By Mr. Bonham:

12 Q. Now, again, I've just got up to the -- You understand  
13 this is the Preston Wood plan for Nagle. This is the one  
14 that you obtained the CAD files for. Correct?

16:57 15 A. Yes.

16 Q. And you copied those onto your computer system?

17 A. Yes.

18 Q. And you made modifications like you did on Mount Vernon.  
19 Right?

16:57 20 A. Yes.

21 Q. And this is the -- I just selected this as the elevation  
22 page.

23 This is from the plans for Nagle that your  
24 office generated. Correct?

16:57 25 A. Yes.

*Cameron - Cross by Mr. Bonham*

1 Q. And, again, lower left-hand corner is Preston Wood's  
2 seal --

3 A. Yes.

4 Q. -- isn't it? Okay.

16:57 5 MR. BONHAM: Let's go to the next slide.

6 By Mr. Bonham:

7 Q. We're looking at the comparison between the title blocks  
8 in the lower left-hand corner from Preston Wood Plan D5-214  
9 and the drawing we just showed for Nagle.

16:58 10 Now, doesn't the Preston Wood plan have a  
11 nice, big, black copyright notice? Again, it's in -- it  
12 should be in your exhibit book, if you need to look at the  
13 original.

14 A. I see it.

16:58 15 Q. Is that same copyright notice present on your plans?

16 A. No.

17 Q. So, it was removed by your office, wasn't it?

18 A. Yes. Don't know why, but....

19 Q. But it was?

16:58 20 A. Is it just that page or is it...?

21 Q. Well, take a look at Exhibit 104.

22 And, again, looking at Pages -- The -- Every  
23 page of Exhibit 104 that bears a Cameron Architect's title  
24 block in the upper right-hand corner lacks that copyright  
16:59 25 notice except for the very last page. Correct?

*Cameron - Cross by Mr. Bonham*

1 A. Yeah. It's not there.

2 MR. BONHAM: Go to the last page of 104, please,  
3 the detail sheet.

4 We've got up in front of you the detail sheet  
17:00 5 from the Nagle plans. Do you see that? Are you familiar  
6 with that?

7 A. Yes.

8 Q. And, again, this is one that you produced under your  
9 title block. Correct?

17:00 10 A. Yes.

11 Q. But this was something from the Preston Wood CAD files,  
12 wasn't it?

13 A. Yes.

14 Q. All of it?

17:00 15 A. All of it.

16 Q. All of it.

17 MR. BONHAM: If you'd blow up the lower portion,  
18 please.

19 By Mr. Bonham:

17:00 20 Q. And, again, this is in the lower right-hand side. It's  
21 got Preston Wood's seal on it, doesn't it?

22 A. Yes.

23 Q. It shows an issue date of January 9, 2014, doesn't it?

24 A. Yes.

17:00 25 Q. That was before this contract with Urban Living went

*Cameron - Cross by Mr. Bonham*

1 into effect, wasn't it?

2 A. Yes.

3 Q. And it also shows, by your seal, you sealed these on  
4 September 22nd, 2014. Correct?

17:01 5 A. Yes.

6 Q. And that was approximately five months after Urban  
7 Living told Preston Wood & Associates that they weren't  
8 using their plan, wasn't it?

9 A. Right.

17:01 10 Q. Now, Mr. Cameron, you've testified that you had done  
11 some other projects for Oppidan using Preston Wood works.

12 Are you familiar with EO175?

13 A. Can I see the floor plan?

14 Q. Sure. It should be in -- Exhibit 48 in your book.

17:02 15 A. Where is 48?

16 Q. It should be Tab 2.

17 A. Yes. Okay.

18 Q. My question, sir, is: Is this the stock plan that you  
19 used for Oppidan for Museum Terrace, the project on

17:02 20 Blodgett?

21 A. Yes. Wait. Okay.

22 Q. Now, did you also do a project using this stock plan on  
23 Ovid Street?

24 A. On what?

17:03 25 Q. Ovid, O-v-i-d. I think it was called Ovid Gardens.

Cameron - Cross by Mr. Bonham

1 A. No.

2 Q. You did not.

3 Did you do a project for it -- project on  
4 Fannin Street?

17:03 5 A. Fannin?

6 Q. Yes.

7 A. I had a project back up to Fannin, but I don't think it  
8 came from Fannin.

9 Q. If I told you it was for Mr. Rajesh Bindal, would that  
17:03 10 refresh you?

11 A. No.

12 Q. But do you at least recognize this as being a --

13 A. I recognize the plan, yeah.

14 Q. As one that you used, at the very least, for the project  
17:03 15 for Oppidan on Blodgett?

16 A. Yes.

17 MR. BONHAM: Go to 226.

18 By Mr. Bonham:

19 Q. Now, you see I've got up on the screen -- and it's  
17:04 20 Exhibit 52 in your book -- Preston Wood Plan E2246.

21 Do you recognize that stock plan?

22 A. Not by the elevation. You said 52?

23 Q. 52. It should be Tab 3.

24 A. I recognize the plan.

17:04 25 Q. Where do you recognize it from?

Cameron - Cross by Mr. Bonham

1 A. This says Colorado. The site plan.

2 Q. Well, I'm looking at -- Again, the question is: Do you  
3 recognize this plan as being one that you've used before?

4 A. I'm looking for the plan. Yes.

17:05 5 Q. So, this would have been another plan that Urban  
6 Living -- or you would have gotten through Urban Living.  
7 Correct?

8 A. Right. Yes, sir.

9 Q. The last one -- we've already talked about this a little  
17:05 10 before -- on the Mount Vernon one is E1171.

11 Now, you got this for a project on Inker  
12 Street originally, didn't you?

13 A. Is this 4?

14 Q. Excuse me?

17:06 15 A. Is this going to be 4?

16 Q. This is 114. So, it will be Tab 14.

17 A. Yes. Inker.

18 Q. So, this was a plan where Urban Living sent you the CAD  
19 files for a project on Inker Street, but, ultimately, they  
17:06 20 were also used on plans you drew for Mount Vernon. Correct?

21 A. That I used for Mount Vernon?

22 Q. Yes. The plans we were discussing that are behind  
23 Tab 15.

24 A. No. That's that different plan.

17:07 25 MR. BONHAM: Could you pull up Plan 115, please.

*Cameron - Cross by Mr. Bonham*

1 Pull up the comparison between --

2 A. Oh. I grabbed Nagle. Which one was Mount Vernon? It  
3 was way up front.

4 Q. Yes, sir. Mount Vernon would be Tabs 14 and 15.

17:08 5 A. Yes. Same thing.

6 Q. The same thing?

7 A. Yes.

8 Q. Now, Mr. Cameron, you're a licensed architect, aren't  
9 you?

17:08 10 A. Yes, sir.

11 Q. And, as a licensed architect, you know you're not  
12 supposed to copy other people's work, don't you?

13 A. Absolutely.

14 Q. But you don't have any problems with taking somebody  
17:08 15 else's work and making changes to it, do you?

16 A. In this situation?

17 Q. In fact, you said this is your standard business  
18 practice?

19 A. No.

17:08 20 Q. Do you remember being deposed in this case?

21 A. Yes.

22 THE COURT: Get to it. What do you have? Page and  
23 line.

24 By Mr. Bonham:

17:08 25 Q. 19.



*Cameron - Direct by Mr. Strother*

1 MR. BONHAM: Actually, pull it up. 18:25 through  
2 19:06.

3 THE COURT: Go on, sir.

4 By By Mr. Bonham:

17:09 5 Q. "Question: So, if someone brought you someone else's  
6 plan, you would have no problem in using it just as a go-by  
7 or making changes to it?

8 "Answer: Right.

9 "Question: And that's your -- your standard  
17:09 10 business practice?

11 "Answer: Yes."

12 That was your testimony, wasn't it?

13 A. Yes.

14 MR. BONHAM: Pass the witness.

17:09 15 MR. STROTHER: Your Honor, before I proceed, may I  
16 confirm that I can ask limited questions of Mr. Cameron and  
17 then call him in my case in chief?

18 THE COURT: Yeah.

19 MR. STROTHER: Thank you.

17:10 20 DIRECT EXAMINATION

21 By Mr. Strother:

22 Q. Mr. Cameron, are you ready to go on?

23 A. No.

24 Q. I didn't think so.

17:10 25 Do you feel pretty badly right now? Actually,

*Cameron - Direct by Mr. Strother*

1 that -- Do you feel pretty bad right now?

2 A. Yeah.

3 Q. What's bugging you?

4 A. Being up in this chair.

17:10 5 Q. More than that. Right? You're being asked questions  
6 about your professional integrity and duplication of other  
7 designers' works. Right?

8 A. Right.

9 Q. I'm going to ask you some questions right now about only  
17:10 10 one of the plans that Mr. Bonham just went into -- at least  
11 I think that's what I'm going to do -- and that's the  
12 Mount Vernon plan.

13 We have a copy of it in our binder as well.

14 So, I'm going to bring you a binder.

17:10 15 MR. STROTHER: And, Your Honor, I don't believe the  
16 Court has received its copy of our exhibits yet.

17 THE COURT: Okay. Hand it up. Why don't you just  
18 put them right up here.

19 By Mr. Strother:

17:11 20 Q. Mr. Cameron, will you please turn to Tab 13.

21 THE COURT: All right. Do you want the computer  
22 shifted or how do you want to handle it?

23 MR. STROTHER: Your Honor, may I please have the  
24 document camera.

17:11 25 THE COURT: All right. It should be on.

*Cameron - Direct by Mr. Strother*

1 MR. STROTHER: Thank you.

2 By Mr. Strother:

3 Q. Have you found Tab 13?

4 A. Yes.

17:11 5 Q. The first thing I'd like to show you is the elevation of  
6 the Preston Wood & Associates plan. I put red tabs in there  
7 for you to find. So, one of the two red tabs will be that  
8 elevation. Let me know when you've found it.

9 A. Not yet.

17:12 10 Found it.

11 Q. This is listed as Page 5 of 12. I'm going to leave this  
12 up here while I ask you a couple of questions.

13 Were you ever paid -- Was Cameron Architects  
14 ever paid anything by anyone for that plan?

17:12 15 A. No.

16 Q. Do you ever anticipate attempting to get paid by  
17 anyone -- or Cameron Architects being paid by anyone for  
18 that plan?

19 MR. BONHAM: Objection. Leading.

17:12 20 THE COURT: Overruled.

21 Q. Is this the plan that was used or is it being used to  
22 build at Mount Vernon?

23 A. I don't think so.

24 Q. Okay. Why do you think not?

17:12 25 A. Because we redid the plans. I remember having to do --

*Cameron - Direct by Mr. Strother*

1 I don't know if it was a new builder or -- I'm not quite  
2 sure why we did new plans, but....

3 Q. When you said --

4 A. I'm pretty certain there were new plans.

17:13 5 Q. When you said "redid" or "new plans" what do you mean?

6 A. New plans -- Oh. Something that we drew up, not a JPW  
7 stock plan. It came from one of my stock plans.

8 Q. Why did you ultimately use a different plan than this  
9 one?

17:13 10 A. I'm not sure. I think it was a different builder.

11 Several projects got put on hold and come back later and --

12 Q. Let me show you --

13 A. -- something else.

14 Q. Let me show you a subsequent page from Exhibit 13. I'm  
17:14 15 going to leave this one up here.

16 Will you turn to one of the green tabs that  
17 has the elevation of the plan that you ultimately drew.

18 A. Yeah.

19 Q. Okay. Is this the plan that you drew?

17:14 20 A. Yes.

21 Q. Is this the plan that was ultimately permitted for the  
22 Mount Vernon project?

23 A. Yes.

24 Q. I'd like to move them side by side.

17:14 25 When you drew the plan here on the left, did

*Cameron - Direct by Mr. Strother*

1 you use the plan over here on the right in any way?

2 A. No.

3 Q. Did you use the electronic file from this plan on the  
4 right, which is the Preston Wood plan, to create the  
17:14 5 electronic file for the drawing on the left, which is your  
6 plan?

7 A. No.

8 Q. Did you intend to be different?

9 A. The footprints are the same.

17:15 10 Q. Why is that?

11 A. Well, it's the site plan. You know, you've got your  
12 plat and your parameters are kind of set. So, this came out  
13 of one of my stock plans.

14 Q. Tell me about your stock plans. What do you mean about  
17:15 15 "stock plans"?

16 A. Well, we've been doing townhomes and single-family and  
17 some, like, commercial for 18 years under Cameron  
18 Architects. So, we have a lot of townhomes as well. So, we  
19 have a book.

17:15 20 Q. Okay.

21 A. Thumb through it and find something that fits.

22 Q. Let me have you look at the other red and green tabs.

23 Why don't you turn to the other red tab for a moment. Okay?

24 That should be a floor plan.

17:16 25 Have you found that first red tab?

*Cameron - Direct by Mr. Strother*

1 A. Yes, sir.

2 Q. So, is this the PWA plan that was used for the first set  
3 of Mount Vernon drawings?

4 A. Yes.

17:16 5 Q. And would you again quantify what level of changes you  
6 made from the original PWA plan and this plan.

7 A. Virtually nothing. I think it was just the fourth floor  
8 roof deck, maybe.

9 Q. Let me see if I can try to show a different floor plan  
17:16 10 next to this so we can compare.

11 Would you please turn to the other green tab.

12 A. Okay.

13 Q. Is this the floor plan for the Mount Vernon set of plans  
14 that was actually ultimately permitted?

17:17 15 A. Yes.

16 Q. And let's look at -- I'm going to call this your plan.  
17 Okay?

18 A. Okay.

19 Q. Let's look at the first floor plans together, best we  
17:17 20 can.

21 Can you walk me through some of the  
22 differences.

23 A. Stair location.

24 Q. So, where was the stair location in the Preston Wood  
17:17 25 plan?

*Cameron - Direct by Mr. Strother*

1 A. Those stairs are located in the back.

2 Q. Right here?

3 A. Yes. And we put our stairs coming up from the middle.

4 Q. Okay. Would you characterize your plan as derivative of

17:17 5 Preston Wood's plan or a flip or a mirror in any way of

6 Preston Wood's plan?

7 A. No.

8 Q. Point out some other differences for me, please.

9 A. Well, I mean, when you move the stairs, you move your

17:18 10 bathrooms and your bedrooms. In this case we wanted the

11 library to be looking out towards the street. So, we moved

12 the stairs to the center.

13 Q. Let's see --

14 A. You know, this came from a stock plan.

17:18 15 Q. So, is it your testimony that you didn't actually move

16 anything, that this was a pre-existing plan that you chose

17 to use?

18 A. Correct.

19 Q. Did you have to modify that pre-existing plan for the

17:18 20 purpose of Mount Vernon?

21 A. Possibly. I would have to go back and find the original

22 stock plan to answer that question.

23 Q. Do you know when you first drew the original stock plan?

24 A. No.

17:18 25 Q. The jury will have all of these back there with them in

*Cameron - Recross by Mr. Bonham*

1 Exhibit 13, but I want to go through another floor. See if  
2 we can put the second floor up there together. These two  
3 plans -- And yours is on the left. The Preston Wood &  
4 Associates is on the right.

17:19 5 Do they bear any resemblance?

6 A. No.

7 Q. Other than the fact that they're open plans?

8 A. Right.

9 Q. Right?

17:19 10 I mean, a --

11 A. A room is a room.

12 Q. Kitchen, dining room and living room are all on the same  
13 floor together?

14 A. Right.

17:19 15 MR. STROTHER: Your Honor, I pass the witness.

16 MR. BONHAM: Very briefly.

17 RECROSS-EXAMINATION

18 By Mr. Bonham:

19 Q. Mr. Cameron, very briefly.

17:20 20 Bring up -- Just so we're clear, Exhibit 114  
21 is the Preston Wood plan. Right?

22 A. Yes.

23 Q. Exhibit 115 is the plan you drew for Mount Vernon by  
24 copying and modifying the Preston Wood plan. Correct?

17:20 25 A. Yes.



*Cameron - Recross by Mr. Bonham*

1 Q. And 116 -- pull that up -- is the plan that you then  
2 came up with to replace the Preston Wood plan which you said  
3 came from one of your stock plans. Correct?

4 A. Yes.

17:20 5 Q. And according to the revision history these were revised  
6 and issued in 2017. Correct?

7 A. Yeah.

8 Q. It's about a year after this lawsuit was filed, wasn't  
9 it?

17:21 10 A. It doesn't mean that's where it came from.

11 Q. No. No. No. I'm just asking you.

12 Mr. Strother asked you why you came up with a  
13 new plan, why you didn't use the Preston Wood plan on Nagle,  
14 and I think your answer was you didn't know.

17:21 15 Isn't it because you'd been sued in this  
16 lawsuit?

17 A. I don't know.

18 MR. BONHAM: Pass the witness.

19 MR. STROTHER: No further questions.

17:21 20 THE COURT: Thank you, sir. You may step down.

21 Call your next witness.

22 MR. ZUMMO: We call Suzanne Labarthe.

23 THE COURT: Raise your right hand.

24 **SUZANNE LABARTHE, CALLED BY THE PLAINTIFF, SWORN**

17:22 25 THE COURT: Have a seat, please. Pull that mic in,

Labarthe - Direct by Mr. Zummo

1 please.

2 DIRECT EXAMINATION

3 By Mr. Zummo:

4 Q. Would you tell us your name, please.

17:22 5 A. My name is Suzanne Labarthe.

6 THE COURT: How do you spell the last name?

7 THE WITNESS: L-a-b-a-r-t-h-e.

8 THE COURT: -t-h-e?

9 THE WITNESS: Yes.

17:22 10 THE COURT: Okay.

11 By Mr. Zummo:

12 Q. What is your profession?

13 A. I am an architect.

14 Q. And, as an architect, do you have a firm that you  
17:22 15 practice with?

16 A. Yes.

17 Q. What's the name of your firm?

18 A. Rogers & Labarthe Architects.

19 Q. And does Rogers & Labarthe Architects have any area that  
17:22 20 you do more work on than other areas or a specialty?

21 A. We primarily do single-family residential projects for  
22 individual clients and, also, some small commercial and  
23 institutional work.

24 Q. And tell me -- Now, you're the "Labarthe" of Rogers &  
17:23 25 Labarthe?

Labarthe - Direct by Mr. Zummo

1 A. I am.

2 Q. Who is the "Rogers" of Rogers Labarthe?

3 A. John Rogers.

4 Q. And are you just architecture partners?

17:23 5 A. We're also married.

6 Q. I'd like to have you tell the jury something about your  
7 background.

8 Where were you born and raised?

9 A. I was born and raised in Stillwater, Oklahoma.

17:23 10 Q. And is that where you went to high school?

11 A. Yes.

12 Q. Where did you go to college?

13 A. I attended Rice University here in Houston.

14 Q. Did you obtain any degrees from Rice University?

17:23 15 A. Yes, I did.

16 MR. ZUMMO: Your Honor, could we have the lights  
17 come down?

18 By Mr. Zummo:

19 Q. Is Exhibit No. 137 the current version of your resume?

17:24 20 A. It's part of it. Yes.

21 Q. And, so, on Exhibit 137, at the top, it shows two  
22 degrees from Rice. Can you tell the jury what those are.

23 A. Yes. My undergraduate degree -- four-year degree was  
24 granted in 1978, and that was a bachelor of arts, and my  
17:24 25 major was Architecture and Fine Arts.

1 Q. Then what's the second degree that was granted in 1980?

2 A. A bachelor of architecture is a professional degree  
3 requiring further study and, in the case at Rice, a year of  
4 preceptorship.

17:24 5 Q. What does "preceptorship" mean?

6 A. "Preceptorship" is kind of an old-fashioned term that --  
7 I guess they use it in medicine and architecture and that's  
8 about it. But it's really an internship under the auspices  
9 of a professional architectural firm.

17:24 10 Q. Now, the next section of your curriculum vitae lists  
11 professional experience.

12 Can you tell the jury what you consider to be  
13 the significant professional experience you've had that  
14 gives you background in single-family homes and townhomes  
17:25 15 like the ones at issue in this case.

16 A. Well, at the bottom of the list is -- that was where I  
17 did my preceptorship in Philadelphia. And that firm was  
18 not -- It was a much more institutional-oriented nationally  
19 recognized architectural firm.

17:25 20 But at Chelsea Architects, which is the next  
21 one up from the bottom, I did work on some townhouse  
22 projects in the '80s, as they were becoming -- As Preston  
23 Wood has explained, you know, townhouses in the inner city  
24 were becoming kind of the going thing at that point.

17:25 25 And then, following that, when I worked with

*Labarthe - Direct by Mr. Zummo*

1 TAS Architects, another small nationally recognized firm, I  
2 did work on a townhouse project or maybe two, although that  
3 was not their primary focus, and later also at Crooks &  
4 Meyers I worked on a townhouse project or two.

17:26 5 And within my own -- Gensler, of course, is a  
6 large firm, but we didn't do any townhouses. It's mostly  
7 commercial interiors that I did there.

8 And within my own firm we've probably done a  
9 dozen or so townhouse projects primarily in the inner city  
17:26 10 and primarily in the 1990s, but those were projects -- we  
11 don't do too many of those anymore. Probably the last one  
12 was in the -- more than ten years ago. But I'm quite  
13 familiar with the design process involved.

14 Q. And it appears everywhere you've worked, since your  
17:26 15 preceptorship in Philadelphia, was a firm that was in  
16 Houston.

17 A. Yes.

18 Q. So, are you familiar with what has been done since 1980  
19 in Houston in the townhouse market?

17:27 20 A. I believe I am. Yes.

21 Q. And are you familiar with the firm of Preston Wood &  
22 Associates?

23 A. Yes.

24 Q. How are you familiar with Preston Wood & Associates?

17:27 25 A. Just by reputation. I've known of them for many years.

*Labarthe - Direct by Mr. Zummo*

1 Q. Now, in this case, did we ask you to assist us in  
2 looking at the plans that are at issue -- or some of the  
3 plans at issue and offer opinions based on your training and  
4 experience?

17:27 5 A. You did.

6 Q. Do you recall, just for background for the Court and  
7 jury, when it was that you were initially contacted about  
8 assisting us in this case?

9 A. You know, I can't remember exactly. It was at least six  
17:28 10 months or so ago, maybe more.

11 Q. And in connection with the work in this case did you  
12 review materials that were provided to you?

13 A. Yes, I did.

14 Q. Can you tell the jury what those materials were.

17:28 15 A. Yes. They were primarily two sets of plans from Preston  
16 Wood & Associates and two other sets of plans that had been  
17 prepared by Cameron Architects for townhouse design.

18 Q. And were the Preston Wood plans -- The D5-214 plan, was  
19 that one of them?

17:28 20 A. Yes.

21 Q. And was the second one the 1171 plan?

22 A. I don't remember the number on that one.

23 Q. Do you have any copies of the plans that you looked at?

24 A. Yes.

17:29 25 Q. And did you bring those with you?

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1 A. I did.

2 Q. Did you bring them up to the witness stand?

3 A. No, I didn't.

4 MR. ZUMMO: Your Honor, could Ms. Labarthe retrieve  
17:29 5 her copies?

6 THE COURT: Sure.

7 THE WITNESS: I need the light.

8 THE COURT: Sure.

9 THE WITNESS: These are what we call half-size  
17:29 10 plans. So, they're more portable than the big drawing  
11 sheets. Yes.

12 By Mr. Zummo:

13 Q. Would you tell us what process you went through to  
14 analyze the plans.

17:29 15 A. Well, first, I did each set by themselves, starting with  
16 the cover sheet and going through, looking at -- just  
17 familiarizing myself generally with the layout and the  
18 composition of the exterior elevations.

19 And I did that -- like, went all the way  
17:30 20 through one set and then looked at what was the presumably  
21 copied set of plans.

22 So, I started with the Preston Wood plans and  
23 then I looked at the corresponding set of plans from Cameron  
24 Architects.

17:30 25 Q. When you looked at the corresponding set of plans from

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1 Cameron Architects for the one that you thought corresponded  
2 to the D5-214 of Preston Wood, was the corresponding set  
3 from Cameron Architects the Nagle Street design?

4 A. Yes, it was.

17:30 5 Q. Did you find anything in the Cameron Nagle Street design  
6 that made you think that it was a copy of the Preston Wood  
7 D5-214?

8 A. Yes.

9 Q. Can you tell the jury what you found. And feel free to  
17:31 10 ask Mr. Cooper to find things on the drawings and blow them  
11 up so that you can explain it.

12 A. Okay. So --

13 Q. And, if you're going to turn, you're going to have to  
14 pull the microphone around so we can hear you.

17:31 15 A. Let me just get -- Maybe I don't have to if I -- This  
16 way.

17 So, the first thing that was noticeable on the  
18 front elevation -- the first thing that was noticeable to me  
19 on the front elevation of these plans is that they're  
17:31 20 extremely similar at first glance. The height, the roof  
21 slope, the details within -- from the arch on the garage,  
22 which is exactly the same radius -- the dimension is given  
23 there -- all the way up to the top where the cornice -- or  
24 the beginning of the pitched roof starts at exactly the same  
17:32 25 dimension off the ground.



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1           So, the proportions of each floor is exactly  
2     the same, the -- I mean, almost every single detail -- until  
3     you start looking at the finer grain elements.

4           And then you notice that, if you drop -- if  
17:32 5     you go to the second floor, what you have is what we call a  
6     mirror image. Right? So, it's a flip. So, what were the  
7     door and the balcony on the left-hand elevation is on the  
8     left and the right-hand elevation is on the right.

9           So, that isn't something to be considered as a  
17:33 10    difference because that kind of flip-flopping of plans is  
11    done all the time in townhouse design.

12           So, that can essentially be construed as a  
13    complete copy even though it looks, in some minor ways, a  
14    little bit different because of the mirror flip of the  
17:33 15    facade.

16    Q. I'd like to ask you a couple of questions about the  
17    Preston Wood plan, the D5-214 here, because there is an  
18    issue -- or there will be an issue in this case about  
19    protectable elements.

17:33 20           Now, are you a copyright lawyer?

21    A. No, I am not.

22    Q. And do you --

23    A. I didn't have time to do that.

24    Q. Do you use terms, as an architect, like "protectable  
17:33 25    elements"?

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1 A. No.

2 Q. So, what -- I'm going to ask you questions about this in  
3 what I hope to be terms an architect would use.

4 Are there aspects of the elevation that we're  
17:34 5 looking at, the garage side elevation, of the Preston Wood  
6 D5-214 that require creative decisions and the creative  
7 arrangements of spaces and elements?

8 A. Yes.

9 Q. Can you explain to the jury, as you understand it as an  
17:34 10 architect, where is the creativity in an elevation like this  
11 one?

12 THE COURT: Which one are you referring to?

13 MR. ZUMMO: The Preston Wood plan, which I  
14 understand to be the one on the left, Your Honor.

17:34 15 JUROR: Could you use the laser so she can point --

16 MR. ZUMMO: Oh.

17 THE WITNESS: I could do that.

18 MR. ZUMMO: Is the laser up there or...?

19 THE WITNESS: Is that what this is?

17:34 20 MR. ZUMMO: It's a laser, yes.

21 THE WITNESS: Okay.

22 JUROR: Thank you.

23 THE WITNESS: Sure.

24 I'm not too used to microphones.

17:35 25 So, I think that it's sometimes difficult to

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1 what we call "read a flat elevation" because we're used to,  
2 you know, three-dimensional buildings.

3 But right here, you know, the decision to have  
4 a balcony would create a shadow -- a shadow line and a  
17:35 5 different type of sense of space rather than --

6 THE COURT: What do you mean "a shadow line"?

7 THE WITNESS: Well, it's recessed from the front  
8 plane.

9 THE COURT: Okay.

17:35 10 THE WITNESS: And, so, as the sun goes through the  
11 sky, of course, that space within the balcony would appear  
12 darker.

13 THE COURT: Okay.

14 A. So, in fact, this line right here, if you look at the  
17:35 15 colored -- Oh. If you'd move that off to the side, the  
16 drawing underneath it shows a little bit of what I mean --  
17 Oh. You don't -- This is a bad copy.

18 But the copy I have shows a shadow, like this  
19 is filled in dark as though that's how the sun is hitting  
17:36 20 it, casting a shadow.

21 So, just in terms of the play as light and  
22 dark on a facade -- that's a, you know, pretty different  
23 sort of thing. You see a lot of buildings where there's  
24 just a complete sheer, flat facade. And this is kind of  
17:36 25 interesting.

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1 Another thing is, instead of just making a  
2 tall wall all the way up, there is a roofline here that is  
3 really the top of the third floor ceiling, and the walls are  
4 extended up to give it more presence, more area on the wall  
17:36 5 for decorative elements, but it also is set back a little  
6 bit.

7 So, again, it's not just a flat wall all the  
8 way up. It's actually cut in here so you get some shadowing  
9 and depth and light, and it's also set back up at the top.

10 So, again, it's not just this flat wall.

11 Q. Are there any other aspects that you would use to  
12 explain the concept of how an architect used creativity in  
13 creating this elevation?

14 A. Well, I believe Preston Wood talked a little bit about,  
17:37 15 you know, the stylistic elements.

16 So, in this case, the two pieces on the sides  
17 are called "pilasters". It's really just a projection  
18 forward of the wall plane. It's to sort of suggest a more  
19 grand type of building like you might see in a temple or  
17:37 20 something where it -- It's a representation of structure.

21 Even though the structure inside this building  
22 is really made of two-by-four studs, this is sort of a  
23 harkening back to an era of stone and, you know, heavier  
24 architecture that -- So, it's a kind of aesthetic treatment.  
17:38 25 It wasn't necessary, you know, and it wouldn't be on the

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1 version of this that was more modern, but it's here.

2 So, there are these stylistic elements, like  
3 the bands that divide the second from the third floor, the  
4 first from the second floor, and then all these kind of --  
17:38 5 This is what in a Greek temple would be considered -- it's  
6 called a "frieze".

7 And, so, it's an element right below the  
8 triangular top piece, which is a pediment. And those were  
9 added just to kind of create relief and decoration on this  
17:39 10 attic space.

11 And then, similarly, the sort of decorative  
12 panels below the windows, the way that a balcony has the  
13 verticals and then some extra horizontals and the  
14 differently spaced verticals -- I mean, these are all just  
17:39 15 elements that add a bit of detail and enliven the facade.

16 Q. In comparing what you've identified as some of the  
17 creative elements in the Preston Wood plan that's on the  
18 left, do you find that those creative elements were actually  
19 copied in the Cameron Nagle plan on the right?

17:39 20 A. I do. Yes. And to the extent that even the description  
21 of what -- For instance, this pilaster I spoke about, even  
22 the way it's described was identical.

23 This is more of a marketing plan where all  
24 those dimension lines and the kind of verbiage that  
17:40 25 describes what some of the materials are, they've been

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1 stripped off that plan because it was just a cover sheet  
2 kind of marketing plan.

3 But in the --

4 Q. We can go to the original drawing right now so --

17:40 5 A. Okay.

6 Q. -- you can compare --

7 A. So, in this set of construction -- what we call the  
8 "construction documents", the things that the builders build  
9 from, which has all that other information on it, the  
10 dimensions and the descriptions of materials, you can see  
11 that description of what that was and how much it was  
12 projected off the facade. Even the notes are identical.

13 So, the dimensions were identical. The notes  
14 were identical. The details, the embellishments, were  
15 identical. The roof slope is identical. The height of the  
16 building, everything, is identical. The only real  
17 difference between these two is the mirror flip.

18 Q. Now, if you heard -- And have you watched all of the  
19 testimony today? Were you here for the trial?

17:41 20 A. Yes.

21 Q. So, you've heard discussion about using CAD.

22 Can you tell the jury what CAD is.

23 A. "CAD" is an acronym or abbreviation for computer-aided  
24 design.

17:41 25 Q. Now, do you work with CAD?

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1 A. My office does. I do some.

2 Do you remember on my vitae you saw the year I  
3 graduated? We drew with, you know, parallel bars and  
4 pencils and.... I pull them out to, you know, make my  
17:41 5 interns laugh.

6 THE COURT: Do you use a board and T-square?

7 THE WITNESS: Not anymore.

8 THE COURT: Well, did you at one time?

9 THE WITNESS: Of course.

17:41 10 THE COURT: I was in engineering school for a year  
11 and a half. You know, they said, "Why did you change?"  
12 Well, I wasn't doing too well. Because two and two equal  
13 four or the bridge will fall down.

14 So, I went to prelaw where, eventually, a  
17:42 15 lawyer can argue two and two equal five and maybe a judge  
16 will agree with it. That's an easier way to go.

17 I used to ride the subways. I went to a  
18 technical high school, literally, with a board and a  
19 T-square.

17:42 20 THE WITNESS: Yeah. The portable board.

21 THE COURT: That's correct.

22 THE WITNESS: Yeah. I had one of those.

23 THE COURT: All right. I'm dating myself, not you.

24 THE WITNESS: Oh. Thank you.

17:42 25 By Mr. Zummo:

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1 Q. As you understand the way CAD works, does CAD make it  
2 easy to do mirror image flips of a design?

3 A. Oh, yes. Actually, if you draw somewhat -- And since we  
4 have an employee that just went on maternity leave, I had to  
17:42 5 draw some, more than normal.

6 But, yeah, one of my favorite things is mirror  
7 flip because it's so wonderfully succinct, because every  
8 time I do it I just think that would have taken me hours,  
9 you know, back in the old days with my parallel bar and I  
17:43 10 can do it just in -- quickly.

11 Q. Now, you also heard the testimony that was -- or the  
12 agreed stipulation that was read in the record that  
13 Mr. Cameron received the CAD files, copied them on his  
14 computer and modified the CAD files from the Preston Wood  
17:43 15 D5-214.

16 A. Yes. I heard that.

17 Q. Is what you've seen in comparing the Preston Wood design  
18 to Mr. Cameron's version -- is that -- does that bear out  
19 the testimony and the stipulation about him using the  
17:43 20 Preston Wood CAD files?

21 A. I would -- I believe so.

22 Q. And do you see any specific things? You mentioned some  
23 of the notes are the same. Did you review the font on these  
24 drawings?

17:43 25 A. The font?



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1 Q. We may see it better on the floor plans.

2 A. Right.

3 Q. Let's go on to -- Do you have comments about the rear  
4 elevation?

17:44 5 A. Well, do you want me to have a comment on the --

6 Q. Well, did you find any -- First of all, are there  
7 creative elements in the Preston Wood rear elevation?

8 A. So, yes. Even though this is a rear elevation, I  
9 believe the site plan for this one was originally developed  
17:44 10 so that there was that yard he talked about in the back.

11 And, so, oftentimes in townhouse design, the  
12 sides and the back are -- Even if the front is embellished  
13 and interesting aesthetically, the sides and back are often  
14 just extremely, extremely plain.

17:45 15 In this one in this case, you see -- even the  
16 pilasters here on the two sides. You see --

17 THE COURT: What are pilasters?

18 THE WITNESS: A pilaster is that kind of  
19 representation of structure, and it generally projects  
17:45 20 forward from the basic plane of the building a little bit.  
21 It varies. The amount may vary.

22 So, there was a -- you know, a fair amount of  
23 embellishment for a rear facade, I think, on this one.

24 By Mr. Zummo:

17:45 25 Q. And when you compare this to the Cameron version, the

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1 window placement is different.

2 Did you determine why that is so?

3 A. Well, I noticed that right away, that the only -- you  
4 know, most striking difference is this window on the second  
17:45 5 floor and these windows on the second floor. But I had to  
6 go to the plan to understand why that was the case.

7 Q. So, would it help to go to the floor plans?

8 A. Yes, it would.

9 Q. So, which floor plan would you like to look at first?

17:46 10 A. Well, we can start at the first floor. That's where you  
11 normally start.

12 Q. Okay. Start with the first floor where you walk in.

13 MR. ZUMMO: Can we look at both of those, please.

14 A. Oh. These are really hard to read.

17:46 15 Okay. So, in this one, the -- Here's the side  
16 entry again. And it's very hard to see on here, but the  
17 stair -- Within townhouse designs, a stair is a major  
18 element because it -- within a tight space that you have in  
19 a -- fairly narrow constraints on a townhouse site.

17:47 20 The placement -- It's not just the placement  
21 of the stair, but how it's developed aesthetically is a  
22 pretty significant element.

23 So, the stair in this case, the first tread,  
24 starts here. But instead of just being a straight stair,  
17:47 25 the bottom of it has the first -- You can't even see that.

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1 It's a little hard to see. But the first two treads have a  
2 radius. See that? It makes it a bit more of a grand  
3 presence.

4 So, sometimes we call this a "starting tread".

17:48 5 But here it's quite large because they wanted to have it  
6 twice. And this little rectangle is an extension of a  
7 handrail, I presume.

8 So, in the other -- in the plan that we're  
9 looking to see if it was, you know, a copy, we see -- I  
17:48 10 mean, that's not a very typical thing, to have such a grand,  
11 little element on the first floor, because most of the first  
12 floor is garage and, usually, just a guest room or a study  
13 or something like that.

14 So, that's a fair -- it takes a fair amount  
17:48 15 more space to devote to some grand gesture like that. And,  
16 yeah, here it is exactly like that in the Cameron Architects  
17 plan.

18 Now, what I found a little awkward about this  
19 one is that they took the option of drawing in -- You know,  
17:49 20 I think, if you zoom back out, Preston would make -- I  
21 believe he said this was a sort of option, that you could --  
22 it could be enclosed with a wall and become a private, you  
23 know, bedroom space.

24 So, it wasn't shown that way in the Preston  
17:49 25 Wood version. It was shown as open. But there was that

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1 indication that you could do that.

2 So, in the Cameron Architects version, that  
3 option was drawn in. But I found it to be rather awkward  
4 that they would have kept the radius stairs, because I would  
17:50 5 have never thought that made any sense when there was no  
6 space around it.

7 So, to me, it's a very awkward thing to  
8 have -- Like, how would you even clean back in that little  
9 triangular corner? You need one of the robots they have  
17:50 10 now. That might be helpful.

11 But it's -- You know, I would have probably --  
12 If I wanted to keep the entry that way, I would have just  
13 left the stairs go straight across because it's just a bit  
14 of an awkward thing.

17:50 15 So, to me, that kind of jumped out as, wow,  
16 okay, yes, this was copied from this, but they drew that in  
17 and they didn't spend any time thinking about the  
18 awkwardness of that little detail. They just left it.

19 Q. I want to ask the same questions about this first floor  
17:50 20 plan that we did about the elevations.

21 Do you see any evidence of creative decisions  
22 by Preston Wood on the first floor plan of the D5-214?

23 A. Can you repeat that question.

24 Q. Is there architectural creativity involved in the first  
17:51 25 floor plan of the Preston Wood D5-214 plan?

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1 A. Well, as I was saying -- I mean, you might zoom out  
2 because we're only looking at one small part of it here.

3 But, you know, I think Preston pretty much  
4 explained his process and, you know, site utilization and  
17:51 5 maximizing the garage and getting all that in and, you know,  
6 the desire of a decision to -- you know, where to place the  
7 stair, how to do the stair. I mean, those are all decisions  
8 that take creative thought. I mean, they don't design  
9 themselves. So....

17:51 10 Q. And when you compare the Preston Wood first floor plan  
11 for the D5-214 to the first floor plan for the Cameron  
12 version, did Cameron copy the things that you found to be  
13 creative in the Preston Wood plan?

14 A. I would say, yes, most, if not all, of those things.

17:52 15 Do we want to talk about the other floors or  
16 different --

17 Q. If you want to go to another floor, we're going to go to  
18 the second floor?

19 A. Yes.

17:52 20 Q. What did you find when you compared the second floors of  
21 these two plans?

22 A. Well, again, the -- Let's start with the stair. I mean,  
23 the stair here could have just been a straight stair.  
24 Right?

17:52 25 So, similar to what was done on the ground

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1 floor with the radius bottom two starting treads, the very  
2 last or very beginning of the stair starts by curving a  
3 portion of the wall, which did a couple of things.

4 It enabled the stair to sort of gradually  
17:53 5 spill out into the living space, which, you know, may be a  
6 more generous, attractive way to start a stair.

7 It also enabled -- This is what was referred  
8 to as a "chase", which is really just a walled-in space for  
9 air conditioning to go -- ductwork and return air to travel  
17:53 10 vertically through the building.

11 So, it did a couple of things. It created  
12 that chase with the air conditioning while, at the same  
13 time, creating a little sense of drama or interest or, you  
14 know, something a little bit -- you know, one of the  
17:53 15 features that would be really noticeable and different about  
16 this plan.

17 And then, additionally, on the back wall of  
18 the living area -- when I saw that, I thought, well, that's  
19 pretty unusual. That would -- You know, there must be  
17:54 20 something -- there's something really unique about that that  
21 would be appealing or there might have been a sight. This  
22 might have been designed for a site that had a good view,  
23 you know; so, they're trying to spread the view. And then  
24 here's the balcony that we talked about creating shadow from  
17:54 25 the front facade.

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1                   So, in this case, this was the front. This  
2 was over the garage in the Preston Wood version and the  
3 original version. And this is the back.

4                   So, this feature -- Remember we looked at the  
17:54 5 rear elevations and it had more decoration than is typical  
6 in a lot of townhouses?

7                   I think it's because, you know, some of the  
8 interesting features, like this curved wall, were on the  
9 back.

17:55 10                  And there was a reason for that; because there  
11 was a little more space behind it than is typical. So, you  
12 could actually maybe be in your yard and look back and, you  
13 know, have something to look at.

14                  Then there were these -- You might zoom in on  
17:55 15 this area a little bit.

16                  So, at the -- Oh. Go further up this way a  
17 bit, like at the top of the stair landing. Right there.

18                  So, this stair does a couple of things. It's  
19 pretty unusual for one stair to have this kind of treatment  
17:55 20 at the bottom with a curve and a radius starting step.

21                  And at the landing at the top it has what we  
22 call a "winder" where you take a square landing and it's  
23 split; so, it becomes like two trapezoids. So, here's one.  
24 Oftentimes it's three in a lot of older buildings.

17:56 25                  I lived in one in Philadelphia and it had

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1 little, tiny winder steps. A lot of codes are beginning to  
2 outlaw -- or have outlawed it because you can trip on them  
3 easily, and I know that personally.

4 So, in any case, at this one landing right  
17:56 5 here, this trapezoid, there's a label here. He created a  
6 niche right in the corner. And on the inside of the powder  
7 room there's another niche.

8 This one is labeled "art niche" because, as  
9 you're coming up the stair, you know, it will give you a  
17:56 10 focal point, something -- You know, you could put something  
11 decorative in there to look at.

12 And then, of course, in the restroom, I guess  
13 they didn't think art was appropriate. I don't know. But  
14 that's called "storage niche". I don't know. I think art  
17:57 15 in the bathroom might be nice, too.

16 So -- But, anyway, there are two very  
17 specific -- The beginning of the bottom and the top of the  
18 stair are very different, very specific, and I believe they  
19 were cleverly done because it helped -- it did a couple of  
17:57 20 things.

21 Like I said, it added an air-conditioning  
22 chase while making the stair appear more grand, creating a  
23 little niche where none was required. You know, to add  
24 another focal point at the top, maybe distract you so you're  
17:57 25 going to trip. But, anyway....



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1                   So, these are just features that, you know,  
2                   were embellishments that were not, you know, basic  
3                   requirement.

4                   And those exact elements are present in the  
17:57 5                   Cameron Architects version of this plan as well, which I  
6                   took as, like, just, you know, more evidence that it was a  
7                   copy of this plan, because not only was the niche there, the  
8                   exact winder trapezoidal step and all that, but.... I don't  
9                   know. I'm sorry. I'm sorry. I'm mixing that up.

17:58 10                   It's a mirror flip over here, but here's the  
11                   niche, here's the other niche, and it's called "art niche"  
12                   and it's called "storage niche".

13                   Q. I'd asked you earlier if you noticed any similarity in  
14                   the fonts.

17:58 15                   Is this a place that you can tell whether  
16                   there's a similarity in the font that's used for these notes  
17                   on the Preston Wood plan and the Cameron plan?

18                   A. That's really blurry; so, now I've got to look at my  
19                   copy.

17:59 20                   I don't -- You know what? I don't think --  
21                   I've been looking to -- I've been working with a graphic  
22                   designer a lot and I think there's a little bit of a  
23                   difference in the font.

24                   It could be that, you know, sometimes -- Like  
17:59 25                   when I am working on an older version of a project or I open

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1 an old project and we've updated our CAD programs, sometimes  
2 the fonts don't come through and, so, it changes the font.

3 So, the fact that the fonts may not be exact  
4 if it's being utilized on a different computer, that can  
17:59 5 just change it a little bit. So, I don't -- I wasn't  
6 focused too much on that.

7 Q. Well, what did you find when you compared the second  
8 floor plans, besides the things you've pointed out about the  
9 stairs and the niches that are around the stairs?

18:00 10 A. Well, the -- Oh. Another thing that jumped out at me  
11 when I looked, you know, more closely at some of these  
12 things is that -- Of course, the main thing -- the main  
13 differences are that, on the second floor, whereas -- On  
14 both of them, of course, the garages on the first floor face  
18:00 15 the same direction.

16 But once you get to the second floor, the  
17 kit -- the plan was flipped in the Cameron version so that  
18 what was in the back here is in the front here and what was  
19 in the front here is now in the back there.

18:01 20 In the process of doing that, you know, there  
21 were certain things that had to be modified because, of  
22 course, there's no balcony on the back in this version. So,  
23 the kitchen configuration changed -- You know, it changed.  
24 And now the stair is opening into this area, which is the  
18:01 25 breakfast room.

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1 And, so, it's a little awkward, because you  
2 would normally think of a grand stair like that opening into  
3 a more major area. It seems like a very formal-looking  
4 stair and, yet, it's going into the kitchen. So, you know,  
18:01 5 it's a bit of a more awkward relationship, I would say, or  
6 it's certainly less typical of an expected placement for  
7 that kind of stair.

8 The kitchen, because the orientation changed,  
9 changed the placement of some of the appliances and so on  
18:02 10 and so forth.

11 So, here we have -- I believe that's the  
12 oven -- no -- yeah -- that's the oven, the microwave, and  
13 here's the refrigerator. And then the sink is overlooking  
14 the dining room. The range -- or the cooktop is over here  
18:02 15 with a fairly long counter and then the island here.

16 So, in this orientation, there's the back  
17 wall -- Well, in this case, there is a pantry tucked below  
18 the powder room. But here there's no powder room.

19 The pantry is in the corner, which shortened  
18:02 20 the lengths of the countertop along the range, which would  
21 be here in this plan. It's here in this plan.

22 The sink similarly overlooks the dining room,  
23 again, as it did here. But now the -- I believe this is the  
24 refrigerator. It's on the back wall.

18:03 25 So, that would have -- This move right here is

1 what affected the placement of those back three rear  
2 windows. You may recall that we talked about that was one  
3 of the major differences.

4 THE COURT: At any time within the next few  
18:03 5 minutes, if you reach a breaking point, let me know.

6 MR. ZUMMO: I think if we can finish --

7 THE COURT: Sure.

8 MR. ZUMMO: -- the second floor --

9 THE COURT: That's fine.

18:03 10 MR. ZUMMO: -- that would be a good spot.

11 A. So, the windows, you know, had to move off center  
12 because of the blockage caused by the pantry, the cabinetry  
13 and the refrigerator. That was why the windows changed on  
14 that.

18:03 15 By Mr. Zummo:

16 Q. When you compare these two, did you find that the  
17 Cameron plan copied things from the Preston Wood D5-214 plan  
18 that, in your opinion as an architect, were the results of  
19 creative decisions that Preston Wood made?

18:04 20 A. Yes.

21 MR. ZUMMO: I think that's a good breaking point,  
22 Your Honor.

23 THE COURT: All right. Stop the clock.

24 Ladies and gentlemen, we had full time in  
18:04 25 today. We're going to adjourn a little early tomorrow,

1 about 4:30, but we will see you back ready to resume  
2 tomorrow at 10:00 a.m.

3 Thank you, and good afternoon.

4 (Jury not present)

18:04 5 THE COURT: Give me a moment. I'm going to fill  
6 these sheets in and give it to you.

7 This is what it looks like generally. I  
8 always let you take a quick look to see what basically it  
9 is. And I will write it down with my law clerks making sure  
18:05 10 I get all the figures right. If you want to take a quick  
11 look at that.

12 I'm going to shut down all the electronics.  
13 Is the overhead off?

14 MR. BONHAM: It's off.

18:06 15 THE COURT: How about those screens? Everything  
16 off? Everybody's screen off?

17 MR. STROTHER: Your Honor, you have 11 hours total  
18 time for each side. We asked for eight. Is that on  
19 purpose?

18:06 20 THE COURT: No. Do I have 11? Let me have it.  
21 It's eight.

22 You're right.

23 MR. ZUMMO: The numbers still look right.

24 THE COURT: What?

18:06 25 MR. ZUMMO: Your total looks right for today.

1 THE COURT: Okay. Yeah.

2 All right. See you tomorrow.

3 MR. STROTHER: Your Honor, before we adjourn, my  
4 client has expressed a desire to address the Court directly.

18:07 5 THE COURT: Yes, sir.

6 MR. STROTHER: Come here. You wanted to talk to  
7 him.

8 MR. RAMANI: Yeah. Your Honor, I want to  
9 apologize. I was given instructions that I could leave.

18:07 10 THE COURT: I understand.

11 MR. RAMANI: By no means would I ever disrespect  
12 you or the jury.

13 THE COURT: Okay. I got it. It's all over and  
14 done with. Since it's, you know, you and your business on  
18:07 15 trial, I need you here.

16 MR. RAMANI: Yes.

17 THE COURT: Off the record.

18

19 COURT REPORTER'S CERTIFICATE

20 I, BRUCE SLAVIN, certify that the foregoing is a  
21 correct transcript from the record of proceedings in the  
22 above-entitled matter, to the best of my ability.

23

24 s/Bruce Slavin  
25 BRUCE SLAVIN, RPR, CM

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